

# THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE QUARTERLY

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## VOLUME XI

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24

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## CONTENTS—VOLUME XI

### NUMBER 1—JUNE, 1930

The Marvels of Modern Banking	M. K. Graham	1
Equality—The Regulative Ideal for Political Science	T. V. Smith	12
Geography and the Supreme Court	Cortez A. M. Ewing	26
The Federal Farm Board and the Agricultural Credit System	V. P. Lee	47
The Police Jury of Louisiana	Taylor Cole	55
Present Building and Loan Condition in Texas	Horace F. Clark	68
Discussion	E. K. McGinnis	74
High Lights in Texas Banking History	Avery L. Carlson	79
Eleventh Annual Meeting of the Southwestern Political and Social Science Association		86
Book Reviews	Edited by O. Douglas Weeks	94

### NUMBER 2—SEPTEMBER, 1930

Schools of Sociology	L. L. Bernard	117
Agricultural Land Tenure in Texas	T. J. Cauley	135
The German Cabinet in Theory and in Practice	Bertram W. Maxwell	148
The Commercial Relations Between the United States and Argentina	Paul DeWitt	156
Governance in Tennessee Counties	J. W. Manning	173
Relation of the Short Ballot to Efficient Government and Popular Control	George W. Spicer	182
Book Reviews	Edited by O. Douglas Weeks	193

### NUMBER 3—DECEMBER, 1930

The Permanent Mandates Commission and the Administration of Mandates	S. D. Myres, Jr.	213
The Sophistic Character of American Philosophy of Education	W. B. Mahan	247
Post-Mortems on the British and Canadian Elections:		
I. Retrospect on the British Election	Rodney L. Mott	260
II. The Socialist Victory in Great Britain	William Thomas Morgan	277
III. The Maple Leaf Changes Color—Canada Goes Conservative	Ben A. Arneson	300
Overseas Marketing of Dairy Produce in New Zealand under the Dairy Export Act of 1923	Robert L. Hunt	307
Social Legislation in Uruguay	Ildefonso Pereda Valdes	314
Book Reviews	Edited by O. Douglas Weeks	317

NUMBER 4—MARCH, 1931

Industrializing the Red Crusade.....	S. Gale Lowrie	335
Party Irregularity in the Senate of the United States, 1869-1901.....		
	Thomas A. Bailey	355
Regulation of Conditions of Employment on Municipal Public Works.....		
	Charles M. Kneier	377
Auxiliary and Non-Party Organizations in Britain.....	James K. Pollock	393
Classification and Economic Status of the Tenantry of a Texas Cotton Plantation.....	Edwin A. Elliott	408
Book Reviews.....	Edited by O. Douglas Weeks	436
Index to Volume XI.....		455



360 JUL 7, 1930

# THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE QUARTERLY

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CALEB PERRY PATTERSON

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## CONTENTS

	PAGE
THE MARVELS OF MODERN BANKING - - - - M. K. GRAHAM	1
EQUALITY—THE REGULATIVE IDEAL FOR POLITICAL SCIENCE - - -	
- - - - - T. V. SMITH	12
GEOGRAPHY AND THE SUPREME COURT - - - - CORTEZ A. M. EWING	26
THE FEDERAL FARM BOARD AND THE AGRICULTURAL CREDIT SYSTEM	
- - - - - V. P. LEE	47
THE POLICE JURY OF LOUISIANA - - - - - TAYLOR COLE	55
ELEVENTH ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE ASSOCIATION - - - - -	86
PRESENT BUILDING AND LOAN CONDITIONS IN TEXAS HORACE F. CLARK	68
DISCUSSION - - - - - E. K. MCGINNIS	74
HIGH LIGHTS IN TEXAS BANKING HISTORY - - - - AVERY L. CARLSON	79
ELEVENTH ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE ASSOCIATION - - - - -	86
BOOK REVIEWS - - - - - EDITED BY O. DOUGLAS WEEKS	94

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## THE MARVELS OF MODERN BANKING\*

By M. K. GRAHAM  
*Graham, Texas*

While my general thesis for the evening is an old one, it is yet one of vital importance to such of you as have fixed incomes. And it is my hope that a showing of its latest developments, as I see them, may be of interest to all of you as students.

### THE GROWTH OF BANKING

Banking has been practiced for hundreds of years. Yet it has made more progress in the past fifty years than during all preceding time. When I was a boy, the average bank loans and deposits were about equal and were only twice the capital; now they are still equal but they are ten times the capital. The deposits of that day were largely the accumulated savings of years. They were mostly the deposits of real money as distinguished from the deposits of today which are largely the result of book credit. Since loans and deposits are cause and effect, they will continue roughly to equal each other, and so there is nothing marvelous about this fact; but the growth of both has been and continues to be marvelous.

### BANK FUNDS AND CAPITAL FUNDS

Credits are of two kinds, those issued by deposit bankers and all others. When a deposit banker makes a loan, he arranges it easily with ink and paper and then he promptly receives the proceeds back as a deposit with himself or his system. When any other makes a loan, he gives something real in return for the debtor's note, this being either gold or property or services,

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\*Presidential address delivered at the annual meeting of the Southwestern Political and Social Science Association, Dallas, Texas, April 18, 1930.

or the title thereto, and he gets nothing back until the note matures. Here then we have one distinction between bank funds and capital funds.

#### BANK FUNDS AND CAPITAL FUNDS INDISTINGUISHABLE

Men have been saving and building up capital funds always. Most men save slowly and painfully. Truly savings are begotten in toil and reared in privation. Many men are unable to save at all. Yet these bank funds, when once made so easily, intermingle with the capital funds and are not distinguishable from them. Why do the bankers enjoy this special privilege? Because all members of the body politic have not the same office. And the bankers should remember that, since this is a special privilege, it carries with it special obligations.

#### HOW BANK DEPOSITS ARE MADE

The ordinary man doesn't yet know that these bank deposits are the result of book credit made by the deposit banks' own loans and investments. And neither does our government know this, for, while it has always claimed and jealously guarded its sole right to coin money and has recognized its duty to regulate the value thereof, here it casually permits the banks to make billions of dollars of bank deposits, often called deposit currency, with no further regulation than that a minimum percentage of reserves shall be held against deposits. Originally bank reserves were probably for the sole purpose of enabling banks to repay their deposits as demanded. Later, since the adoption of the gold standard, the reserves in part were required to be in gold for the additional purpose of maintaining all money on a parity of value with gold. These are the only legal regulations and they look solely to the soundness of the currency. They ignore the source of these bank deposits and also that gold itself changes in value and thus that all money on a parity of value with gold likewise changes in value with gold.

#### BANK DEPOSITS ARE MONEY MADE BY BANKERS

Some bankers and some economists deny that this deposit currency is money. Each man can define money for himself, for there are many uses of the word and as many meanings. Webster defines *money* as "any currency usually and lawfully employed in buying and selling." "*Currency*," he defines, "as that



which has general acceptance or circulation; that which is given and taken as having or representing value." These definitions certainly embrace deposit currency for it is conceded that deposit currency does 80 per cent to 90 per cent of our buying and selling and it is maintained on a parity of value with gold. So I have no trouble in believing with Hon. Reginald McKenna, head of the biggest bank in England, that "money is currency and bank deposits drawable by check." Custom, too, supports this view. The bankers when receiving deposits make no distinction between gold coins and all good checks and, when once on the books of the bank, all deposits look alike. We all refer to bank deposits as money in the bank; and the law taxes bank deposits as cash on hand. Deposit currency certainly is money.

Believe it or not, but since deposit currency is money, that part of it made by the State banks is made in violation of the Federal Constitution and will in time be so declared. That it is now permitted, would be marvelous were it not that the law always lags. The law often permits what equity forbids.

#### FUNCTIONS OF MONEY AND THEIR RELATIONSHIP

Money has two major functions. It is the medium of exchange and the standard of value. As the medium of exchange there should be the right amount of money, and this amount is gaged by its value: its unit should not change in value.

These premises should need no extended reasoning on their behalf. Surely, no one will argue that we need too much or too little money, neither will any one argue that the standard of value should be a changing one, hence any difference must arise over the union of the two, viz., that the right amount of money is that amount which will stabilize the value of the unit.

Yet this, too, is almost self-evident, since the more money there is, the less each unit tends to be worth. Too much money causes inflation, witness Germany's post-war experience and our recent stock-market inflation. Too little causes deflation as those who lived during the last quarter of the nineteenth century can testify. Just the right amount causes the unit's value to be stable, as are all fair and honest standards.

#### DEPOSIT CURRENCY CAN BE REGULATED

The value of this deposit currency can be regulated. Deposit bankers make deposit currency out of ink and paper. Costing little except the reserves held against it, and varying in value

somewhat in inverse ratio to the amount issued, it is reasonable to suppose that, even if they cannot control its value within definite limits, they can exercise some control. Just as one can lead a horse to water but cannot make him drink, so the bankers can offer this credit and can invite and encourage its greater use but cannot force its use. Hence they are not all-powerful in holding up values or in raising them. But, on the other hand, as surely as one can limit his horse's drinking until he dies of thirst, so surely can the bankers prevent inflation. And where there is no great inflation there is not likely to be much deflation and hence not much need for holding up or raising values. And more skill will follow practice. Any man-made thing can be regulated in time, if man has the will to do so.

#### RATE OF INTEREST REGULATES BANK FUNDS

Supply and demand regulate the price of some things. The converse of this is true of other things.

Applied to money, the amount of real savings available for commercial purposes and the demand for their use tend to fix the interest or returns on their use. On the other hand, the rate of interest ruling for bank loans tends to invite or discourage their issue. Here seems to be a paradox, but there is none, for, as we have seen, these are quite different kinds of money. Savings are made regardless of their returns. Certain forms of them are the real money. Deposit currency is the result of book credit and supplies what more is needed. While it in amount is the chief money of business, it is an abstraction. It is called into being or canceled largely at will. But it is the more important of the two because it is the price received for the last increment of this deposit currency which tends to fix the price of the whole credit structure. This price or rate should be sufficiently low to encourage the making of enough deposit currency to hold prices up but not so low as to encourage inflation. This may prove to be hard to put into exact practice but the theory is sound; and he is craven who shirks a duty because it may be hard.

#### BANK DEPOSITS BELONG TO BANKERS

And these bank deposits in effect belong to the bankers. While they are listed as liabilities they are, in truth, very limited liabilities.

In the beginning they were real liabilities and the fiction persists, although the reality is quite otherwise. The proof runs thus: as the population increases, money must likewise increase in proportion if business is to keep pace. At least, money must remain the same. This money is deposit currency for it will be conceded that the amount of real money in circulation per capita is continually decreasing. If the amount of deposit currency must continue to increase or remain the same, it can never grow less and if it must never grow less, in effect, it belongs to the bankers—and this, tax free to them. Deposits, as a rule, are loans made by the depositors to the banks, generally without interest and never due. Some small part of them is continually being called, but more are continually being paid in. Deposits are paid out to one man and by him to another and so on, but they are again promptly deposited by the last man, as were the proceeds of the "call loans" last November. Indeed, there was no other place to put them, and thus a valuable lesson was learned by the bankers.

Does one yet doubt? Then as a matter of fact, even 10 per cent of the bank deposits of the entire country could not be paid out to the depositors and be retained by them, no matter how willing the bankers might be. All the money there is in stock is not enough to pay back this 10 per cent of the deposits, much less the 90 per cent remaining. So if the bankers are to hold the deposits always, and lend them out and buy stocks and bonds with them for their own account and, furthermore, if the bankers could not return them if they would, are they not theirs? And is not this bit of jugglery some marvel?

#### HOW MUCH A BANKER CAN LEND

But the individual bankers will be required to honor a reasonable amount of checks as they now do, and they should, for their own safety, not permit their loans to become frozen. All depositors of a bank never want their deposits at one time if they think they can get them. But let there be any doubt about one's getting them promptly on demand and a run develops at once, Dean Fitzgerald's monograph "How Much a Banker Can Lend" clarifies this phase of the subject.

#### FROZEN LOANS

Frozen loans were one cause of the last panic, the stock-market panic of October, 1929. The stock market had not absorbed too



much money particularly, as such, but it was the cause of the freezing of the loans of the banks and this, at last, did cause the trouble. There was plenty of money in the banks, but the depositors were different men from those who owned stocks and owed the banks. This was evidenced by the high money rates. And the stocks eventually had to be marked down until they became sufficiently attractive to the depositors.

#### ONE PER CENT OF BANKERS OWN 75 PER CENT OF DEPOSITS

There are between 50 and 60 billion dollars of bank deposits and a billion or more are being made annually. While there are 25,000 banks, 1 per cent of the banks control three-fourths of the nation's commercial deposits and 10 per cent of the banks control four-fifths of the deposits. These figures may be too high, but scale them by half and yet they are startling. It is this 10 per cent who are the "they" of my remarks this evening.

#### SOME RESULTS—CHAINS AND MERGERS—THE OBJECT

It is this system which has enabled the big bankers and big business, which are so closely interwoven that they are one and the same, to find the funds for the many chains and mergers and consolidations formed—even demanded them. And, what more natural than for the big bankers to wish to absorb all of the smaller ones? They are by way of absorbing everything else in sight, why not make a clean job? And the 23,000 smaller bankers who have always heretofore opposed chain banks, are being won over to the belief that they should become the hired men of the wise 2,500 bigger ones.

They should not be permitted greatly to change our unit banking system. The moving consideration with them is not so much the good of the country as of the individual—less overhead and greater profit and the ownership of more deposit currency. Group banking is particularly objectionable because, in the absence of any deposit guaranty, the double liability of bank stock is now too small; and, under the group system, even this small liability is reduced. Furthermore, unless they are stopped, they will in time be able to dictate Federal Reserve policies.

#### CHANGING THE FABRIC OF OUR NATION

If making much money is the end of life, the bankers are succeeding wonderfully. They are making much bank funds and

owning them with which they are making many hired men and owning them. The more big businesses there are the fewer small ones there will in all likelihood be. We are the richest nation in the world; but, as we grow richer, we are changing the fabric of our nation. The smaller towns are losing their independent leaders and are becoming the homes of smaller men. It is commonly conceded that the chains and mergers are a menace to the welfare of our country even if they all succeed, not only because of their indirect belittling effect upon many men, but also because of power it will eventually give those in control to charge their own prices and to do as they please. Whereas, if they fail, there will be loss and unscrambling and hard times. Either way, the people will lose and will pay.

The Davids and the Solomons are usually fairly considerate and respectful of the people. They know the cost of building and of doing and the dangers of tyranny. But their children and successors know not the cost and the dangers. They believe their "little finger to be thicker than their father's loins." Thus again, it will be "To your tents, O Israel," and there will be the strengthening of anti-trust laws—or worse.

#### A WARNING

I may be wrong as to this—let us hope that I am. But even so, of one thing I am sure, and it is this which I am trying to make heard: that there should be some more definite limit to the issue of deposit currency because the more there is of it the less each unit of it and of my saved funds and of your saved funds tends to be worth. I am trying to make them hear that, while they have learned, after many tribulations, how to maintain this bank credit on a parity of value with gold, gold itself changes in value; and that now they should try to prevent undue fluctuations in the value of gold, this ever-changing value of gold being one of the worst evils of all time.

#### THE BANKERS' ANSWER

But they will not harken. They say that the trouble is not with the gold but with the goods of the world. They make light of the Quantity Theory of Money. They teach that men are not to be trusted as compared to the automatic gold standard, whereas the truth is that gold is automatic only inversely as it is managed and it is now managed endlessly by them through

their economies in its use, their substitutes for it, their manipulations of the reserves, and their control of the discount rate. Yet, being the same Merlins who have worked these other marvels and enchantments, they get by with this so that most writers end their criticism of gold with the stereotyped thought that gold, notwithstanding its faults, is rather to be trusted than men. One always wants to ask, "Which men?" They even plead that they cannot prevent undue fluctuations in the value of gold when the fact is that this is nearly related to and would be no more difficult, with practice, than their keeping all money on a parity of value with gold.

#### IN REBUTTAL

It is true that gold and goods did long cause trouble by alternately ruling prices. Then entered deposit currency and this has since become the head of the trinity and the price arbiter. Its irresponsible power should now be legally directed to stabilize the price level, that is, to hold an assorted bill of goods equal in value to a given quantity of gold, thus harnessing together goods and gold. The several items of the bill would strive continually amongst themselves, under the law of supply and demand, each to increase its own price and supply at the expense of the other items; but their total supply could never long exceed the effective demand of the money made.

And these Croesuses will decry the Quantity Theory because this is the very foundation of our structure. Yet there is nothing more self-evident in the entire realm of economics than the theory that the more there is of any economic good, the less each unit of it tends to be worth. Air is everywhere and air ordinarily has no economic value. The same is true to a lesser degree of water. Cotton and wheat vary inversely in value as their quantity. And so with money. The general algebraic statement of this Quantity Theory is equally axiomatic for what it may be worth. So, when they undertake to disprove it with figures and their figures show poor correlation, the trouble must be with the figures, their values for the algebraic terms. When two plus two are not four, there is some trick about it; because two plus two always equal four in ordinary usage. There are smoke screens in economics as in war.

## THEORY OF STABILIZATION

You are now familiar with the theory of stabilization. How it is based upon this theory that the more there is of any economic good, the less each unit of it tends to be worth. How the price index is the best gage for our purpose. How the returns from the last increment of these bank funds tend to fix the price of all credit, just as the last million bales of cotton fixes the price of the cotton crop. How bank funds are man-made and surely can be man-controlled. How this control is effected by the manipulation of the reserves and by the bank rate for money. How it may not be possible at times to increase the issue of bank funds but it is always possible to stop or to decrease the issue. How it follows that if the total issue never gets too high, its natural growth will continue of its own accord.

## COMMODITY INDEX NUMBER THE BEST GUIDE

There is some difference of opinion as to what index should be used, the two extremes being the simple wholesale commodity index and a complicated general index which includes, besides commodities, also rent, wages, and securities.

Any index is better than none; but the best index is one which is simple, readily available, and *internationally* applicable. It should promptly reflect changes in conditions. We want here a gage rather than a governor. The commodity index more nearly satisfies these requirements.

But this is not to be the only guide. We are to use this in the light of all other available data and experience, including the general index. Also, all that we may hope for is to hold it within reasonable limits, and this in its international implication. The real value of gold is its world value and we shall not expect the impossible. In the absence of international coöperation, its extremes may vary widely in time; but, nevertheless, a stable price level should be our aim, unless periodic revisions of the index number should prove to be advisable under a progressive economy.

## NO NEW THEORY IS OFFERED

You must believe that I am not offering a new and untried theory in place of the marvelous system we now have. Indeed, with all of its inequities, I can imagine no other anything like



so good. Let us retain all of our gold but let us make gold our servant rather than our master or our god.

With all of our vaunted progress in other lines, why do we continue seriously to predict a gold shortage accompanied by an increase in its value, when there is such a satisfactory substitute for gold in book credit? I ask this, knowing that history teaches universal failure where nations have abandoned gold for a paper standard; but I am not suggesting any deviation from the strict gold standard practices of today. What I am suggesting, is the practical use of the knowledge gained during the past ten years of how to use gold to the best advantage. Let the price level be the acknowledged guide for the use of the discount rate instead of that vague one, "To accommodate business and commerce." Let the authority to change the minimum reserve requirements of deposit banks be given to the central banks. This will strengthen their open-market operations which work more indirectly to the same end but which are more limited in scope. Let reason rule rather than fear; but see that reason does rule or know why it does not.

#### WHAT SHOULD BE STRESSED

Of course, you will teach what you believe. But may I not here venture to suggest and to hope that you can see fit to stress the following?

*First.*—There should be general realization of the evils of a fluctuating standard of value and the virtues of a stable one. A stable standard of value is essential to the control of the business cycle.

*Second.*—There should be general realization of what deposit currency is and of how it is made; that it is at once the source of our progress and the cause of our trouble. Then it will be realized that its issue must be regulated and that this regulation can be effected only when all of the larger deposit banks (say of \$100,000 capital and upwards) belong to the system and are amenable to its requirements. Refusal to come in must work forfeiture of their charters.

*Third.*—There should be general realization that instructions to the central bank to prevent undue fluctuations in the value of gold mean something definite and that thus, even with the added powers which may be given them for that purpose, the

central bankers will then have far less power for harm and more for good than they now have.

My friends, I may be mad. Men have gone mad over less. But, if I am not mad, the following simple sequence holds more for the world's future welfare than can now be weighed. It is this: deposit bankers make deposit currency largely out of ink and paper; this deposit currency is money, equal in value to gold but far more potent, and, in effect, it is owned by them; those who control the money of the world, as matters now stand, control its peoples, its governments, and its destinies. Ponder its implications—and let them laugh it off if they can.

## EQUALITY—THE REGULATIVE IDEAL FOR POLITICAL SCIENCE\*

By T. V. SMITH  
*University of Chicago*

"No one," says a contemporary political scientist,<sup>1</sup> "who has pursued the idea of equality with some diligence and design through the vast body of political and legal literature can fail to be struck with the usefulness of marking with precision the growth and influence of the ideal in modern times." Let this conclusion from one of your own number be a philosopher's initial warrant for perpetrating upon you this discussion of equality as the regulative ideal for political science. But let us start from the valley of disillusion by quoting another contemporary social scientist to the effect that "differential psychology utterly blasts the hopes of the older equality theorists."<sup>2</sup> If psychology has done this thing, where does political science go from here? Shall we move for rehabilitation of the equality ideal, as I have sought to do in another place?<sup>3</sup> Or shall we quest for an ideological substitute, a *la* Mussolini? Or shall we, without the light of any consistent ideal, nerve ourselves "To brazen and chance it out?"

There is indeed some indication of preference among political scientists for the last-named alternative, though no great enthusiasm as yet for delegating leadership in the enterprise. Tired of teleology, for restless facts we cry. This is a far cry, and rings somewhat hollow across the expanse of years. For if in the beginning were facts, the facts were without meaning; for there were no men. But with man came meaning, and ideals arose to transfigure facts. Political scientists represent a cross between men and politicians; for before they became scientists, they were men; while they are scientists, they often long to be, and sometimes essay to become, politicians; and after they are scientists and mayhap politicians, they will be men again—if but at last to die. For while science goes on forever, men must come and go. "They are, like other men," as a recent wit

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\*Read before the American Political Science Association at Chicago, 1928.

<sup>1</sup>Goebel, *The Equality of States*, p. 89 (Columbia Press, 1923).

<sup>2</sup>Willey, *Political Theories of Recent Times*, p. 60 (Macmillan, 1924).

<sup>3</sup>Smith, *The American Philosophy of Equality* (Chicago, 1927).



has it, "married to the laying on of hands and buried with benefit of clergy." As compounds between men and politicians, political scientists cannot escape either facts or ideals, though to hear them in morose moments reprobate the philosophers one might think them quite virginal as regards ideals.

Indeed the shyness that social scientists in general and political scientists in particular are developing toward ideals is strongly suggestive of the earlier attitude of natural scientists toward hypotheses. It will be recalled that Francis Bacon thought that the experimental method which he was setting over against Aristotelian logic could treat with disdain everything except the facts. Hypotheses were described as bastard facts at a time when to be a bastard seemed sore and sad to every Christian eye. Hypotheses were figments of the imagination, and as such had no place in the repertoire of an honest empirical scientist. Though this distrust is written large in as late a book as John Stuart Mill's *Logic*, nevertheless for hypotheses Mill does at last find a role—a role that in natural science has become less equivocal in recent years. As natural science has achieved a larger control over facts, it has become sensitive to the instrumentality of ideas in its technique and more willing to make a virtue out of their persisting necessity. Social science seems determined to imitate the vices as well as the virtues of its predecessor. Distrust of ideas and ideals is almost certainly a sign of scientific adolescence—a necessary stage perhaps and tolerable if it does not persist as adult gawkinsness. Scientific distrust of ideals betokens a desperate need for unequivocally good ideals.

If social scientists ever discover that they have measured everything except what they most need to know, then no further counsel to consider ideals will be required from the philosophers. Meanwhile, let them devote themselves to facts. It is certainly not the privilege of the philosopher as guest to demand prematurely of his host a preoccupation with ideals. Some idealism glints forth from the mere rôle of a host. Let this remark record the gratitude of a guest. Paraphrasing a famous sentence from Mr. Justice Holmes, continuity of ideals with facts cannot be paraded as a virtue until it is discovered also to be a plain necessity. There is indeed a certain obvious utility in applying the principle of specialization here as well as elsewhere. Certainly it is easier for the philosopher to keep up his self-respect, and also his budgetary prestige in academic institutions, when he

can presume upon the neglect of ideals by others to furnish him with a special field of work. If he can say that *but for him* the whole field of ideals as such would lie fallow, and can then invent a terminology that is esoteric enough to be imposing—count on him for that!—he is in a fair way to being thought a man as well as a philosopher. Such a distribution, however, is no “quid” without its “quo”; for it enables the political scientist to pass as super-tough-minded and to parade statistics like a true hard-boiled he-academician.

If, however, dropping this professional bravado, we hold with Aristotle and the long line of those who were both philosophers and political scientists that man is demonstrably both an emotional and a teleological animal, we must acknowledge as a consequence that in being a devotee of sheer ideals a philosopher becomes less than a man. Plato's final pathetic reason for essaying dubious administration through Dionysius at Syracuse was, as he confessed, that he feared to see himself “at last altogether nothing but words.”<sup>4</sup> Must we not with equal lack of bravado also admit that a political scientist who in devotion to facts disavows ideals elects to be an academic earthworm? And this in a world where around him are life and laughter and love and where, despite his myopia, shine still over his head the deathless stars!

O, doth a worm deprived of wings  
Go earth-bound wilfully?

Or, not to impose further upon the poets, in plain prose, ideals without facts are fictions, and facts without ideals are futile. At least it is in this conviction that I wish in the following pages (1) to indicate an indispensable ideal element in political science, (2) to propose equality as the functional nucleus of this ideal element, and (3) to suggest the actual rôle played in modern life by this equalitarian ideal.

# I

If there be any completely recalcitrant ones, let us leave them crawling among the facts while now we preen our flabby wings for flight. Crawling, however, among *what* facts? Well, nobody has yet, I think, published the correlation between left-handedness and corrupt elections. Nor has anybody yet given an adequate

<sup>4</sup>*Epistle*, VII.

statistical treatment of the relation between the kind of cushion the judge sits upon and the quality of justice that he strains out between sessions at golf. Nor has the problem yet been solved to my own satisfaction of the influence of nasalality in high quarters upon the distribution of the now traditional Coolidge prosperity. And what of the influence of baldness upon conservation, or of the monocle upon imperialism, or of sauerkraut juice upon bellicosity? In truth the very selection of any one of these problems by our earth-bound devotee marks the metamorphosis of our grub into a chrysalis. No god dare wrong this worm, for grubbing at the root of the ancient apple tree, while the sociologists purloin its fruit, he will eventually become wise, like the philosophers, himself knowing good and evil. He will yet, nourished upon such sap, sprout wings and beat with us the empyrean. The ideational is inevitable even for him. Where selectivity operates, purpose is in session; and where purpose is, ends are; and where ends are, ideas are; and where ideas are, ideals soon will be.

The distinction between ideas and ideals is indeed a very slender one, with no exclusive thresholds. Ideas are the counterparts of frustrated endeavor where hope exists of easy remedy. Ideals represent specific situations grown chronically unsatisfactory, or more general situations conceived as capable of betterment with little prospect of being immediately bettered. Conceived thus, ideals bear much the same relation to political science that hypotheses bear to the sciences less general in their subject matter. For a fact all human conduct does have consequences, both immediate and remote. Acknowledgment of the rôle of hypotheses and ideas connotes a sensitivity to immediate consequences; but sensitivity to remote consequences is memorialized only by a concern with ideals. It is upon a recognition of these remote consequences that one social thinker of our time has so recently sought to found the very public itself,<sup>5</sup> with one set of whose problems this association preoccupies itself.

At what degree of remoteness of consequences the law of diminishing returns should discourage preoccupation, nobody can say dogmatically. The House of David, our erstwhile neighbors across the lake, caught the vision of one far-off ideal and followed it into retirement from the world and into a denial of the ordinary logic of commonsense. "What do you do with

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<sup>5</sup>John Dewey, *The Public and Its Problems* (Holt, 1927).

your immortal members that lie down and die?" queried a curious colleague of mine of a faithful guide in their preserves. "Turn them over to the undertaker," he frankly replied. "We take that as a sure sign that they never were of us." Mary Baker Eddy also, it will be remembered, stole home at last on a similar error. Between such counsels of perfection as religion in its more fanatic forms engenders and the blind grasping of sheer immediacy, the ideational golden mean must be sought. Find it one must if he is to live responsibly. To assume responsibility for the remote consequences of one's acts is to live according to ideals; for ideas of full future consequences are ideals for present conduct. The only way for the political scientist to escape the responsibility of his own specialized preoccupation is for him to emasculate his sympathy and to anesthetize his imagination. The moral, then, is not to despise ideals, nor yet to fly them, "When me they fly, I am the wings," but rather to understand them and to control ourselves and direct our sciences in the light of them. But *which* of them?

## II

Social ethics has its most crucial test in the distributive system of any given time and place. No dream of human betterment has tried seriously to tamper with that categorical imperative of production—"from each according to his ability." But distribution has always been thought a matter for adjudication—and eventually for moral judgment. Should distribution be according to power, according to service, according to desert, or according to need? One's participation in the political enterprise—be it but to study it—will, willy-nilly, have some influence upon distribution: (1) either to maintain the *status quo*, or (2) to increase existing inequalities, or (3) to make for greater equality. Ideals in the name of which actual communities of men have overturned historic orders certainly must come into the purview of political science and as certainly they get their relevancy for human concern from their potency for a more satisfactory distribution of available goods. All observers agree that Communism is a high ethical, not to say religious, endeavor in this direction. Its problem is production, but its motivating dream is of equalitarian distribution. Observation of it should help us to remember that the same hope inspired democracy in the halcyon days of its youth. Or, to be somewhat



more analytic, there are the ideals of liberty, of fraternity, of justice. How stand these several perexisting ideals related to equality, that brightest grace of the democratic vision? Without seeking unduly to deprecate other political ideals, we must now come to a clearer understanding of the place of equalitarianism in political philosophy.

If liberty has been the watchword of modern democracy, this emphasis has been clearly foreordained by the social situation. Disparity of privilege has been the most notable inheritance of men. Freedom is the cry of the underprivileged. Since their lack has been liberty, liberty has been their goal. Liberty has proved capable of being particularized and of being achieved piecemeal. But its concrete achievement by one class has always endangered other classes. From the regularity with which justifiable revolutions over-reach themselves, the conquest of liberty may be likened to a through train with only terminal stations, of under-much and of over-much: here the vale of suppression, there the heights of oppression. If, however, underprivilege does not stop short of overprivilege, underprivilege is perpetuated by the process that was to cure it. But there is no automatic safety device that pulls this Liberty Limited up at some half-way station. A contradiction thus invalidates liberty as a statement of the social ideal. As an ideological goal, for political science liberty needs, therefore, a safeguard, and finds it in equality: that degree of liberty and that degree alone can be sought and justified and a humane political science which does not lessen below one's own the liberty of others. Liberty is good, but it is not the greatest good. The greatest good is equal liberty for all, if for no other reason than the plain one that thus there is more of it. What goes beyond the equal at law is not permanently and stably enforceable. What gives the cry of the underprivileged its moral potency is the validity of the implied ideal of equal opportunity. It is, then, through equality that the ideal of liberty is rendered safe for politics and its fruits available for all men.

The differential place that equality achieves through this comparison with liberty is maintained through a comparison with fraternity, the other inherited democratic ideal. If brotherhood be taken for the moment as the chief human good, the simplest statement that can be made about it is that it is impossible except through equality. Those who have equal amounts of either

talents or goods need not be mutually fraternal, but they will never be fraternal long at a time without this condition. Equality is necessary as a means to fraternity, even though fraternity is not the only good. Where equality prevails without brotherhood, great good still obtains—the good of liberty operating in non-competing spheres. Universal brotherhood is not necessary for the life either of a good man or of a good citizen; much smaller brotherhoods than this suffice. Indeed universal brotherhood is emphasized as a necessary ideal only where it must serve as a compensation for unequal distribution of liberty. The fact that even so, it never serves effectively either to remedy or to compensate constitutes the final argument, I think, against the religious way of life in favor of a secular civilization. Given equalitarianism, fraternity to the extent needed would already exist; without this, fraternity never arises except by pious attribution. Who, in or out of Tammany, does not know how much more satisfactory for daily needs is one friend than the whole cloud of witnesses that constitute the Church Invisible? On the small scale of diurnal need, friendship suffices; and on the large scale where imagination envisages the “choir invisible,” tolerance rather than brotherhood is indicated. Who does not recognize the facility of friendship through equality? Let it be equally well recognized that tolerance can be better achieved through a modicum of substantial equality than through a maximum of sentimental attribution of brotherhood.

Suppose one substitute for these stereotyped and particularized ideals, the general ideal of justice. How stands equality with reference to justice? In very much the same dependency we have noted for other ideals. If justice be considered at the legislative nexus, it at once appears that the first principle is that legislation aim at the general good through the equal welfare of each citizen. Statutes are general rather than specific so as to achieve this end while respecting this mean; and specificity of application must be justified in terms of a difference in circumstances rather than of a character differential. If it be considered at the judicial end, it appears at once that equality of treatment is the *sine qua non* of justice. If it be considered at the executive end, each person must be counted for one and nobody for more than one. Looked at in general, therefore, whether justice be thought of in terms of a guarantee of benefits or as an assessment of penalties, its essence is equality.

Aristotle's attempt to avoid this clearly-indicated conclusion and the penalty of his avoidance reinforce the conclusion itself. It will be remembered that he sought to maintain his *status quo* by distinguishing proportionate and arithmetical equality.<sup>6</sup> We may well dismiss the former as clearly nothing but inequality suborned with a name so noble that he intuitively in using it to describe its opposite. More significant, he finds it expedient to repair the ethical breach thus made by putting heavy emphasis upon equity as the "rectification of legal justice"<sup>7</sup> and by honoring as a potent means to the good life the virtue of friendship. In friendship, as he notes, "quantitative equality" occupies first place; for, as he further remarks, "if there be a wide distinction between two persons in respect of virtue, vice, affluence, or anything else, . . . they cease to be friends; . . . they do not even affect to be friends."<sup>8</sup> The total resultant of Aristotle's treatment of this matter is to reinforce the notion that in the quest for justice quantitative equality, that is genuine equality, must have its day at last, whatever be its first reception.

Perhaps this general ethical if not logical priority of equality could, however, be better enforced in this scientific atmosphere by an approach less philosophical in character. Let us recall that the same historic process that disintegrated nature as an earlier hylozoistic whole into mechanical atoms discovered social groupings to be composed of separated individuals. Consider the social use made in the ancient world by Epicurus and Lucretius of the Democritean physics. Consider at the beginning of the modern period how science and democracy developed *pari passu*. An aristocratic Japanese scholar—Professor Chikao Fujisawa<sup>9</sup>—using this concomitance for his own ends, reminds us of the truth that the pioneers of modern science belonged mostly to the third estate, the moral and intellectual standard of which was unequivocally low in comparison with the other two estates, which remained unaware of such a mechanical outlook on nature.

Winking for the moment at this invidious comparison, we may admit it as true that unless there are simples to be got at, science cannot operate; for its footholds are manufactured only by analysis. We may indeed "murder to dissect," as the poets peren-

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<sup>6</sup>*Nicomachean Ethics*, V:6-7 (Welldon's translation).

<sup>7</sup>*Ibid.*, V:14.

<sup>8</sup>*Ibid.*, VIII:9.

<sup>9</sup>*The International Journal of Ethics*, XXXIX:424-444 (July, 1929).



nially complain; but we also catch certain facts naked only in post mortems. At all other times they are veiled in vital enigmas. Science must analyze if it is to do its work at all. Politics as science is initially, at least, analysis in social relations, and its goal is simple discrete units. But it must reunite its units; otherwise it is all science and no politics. In truth the atomism into which early social analysis precipitated social science had its remedy in the notion of contract. We pass by Maine's famous dictum to note that though we have outgrown the contract theory of government, the fruits of that theory we have in no wise renounced. Contract remains basic to our whole legal system as though government had arisen by a meeting of minds for some substantial *quid pro quo*.<sup>10</sup> Moreover, the notion of contract constantly gains new ground as is indicated by the present factuality everywhere of divorce and its legitimacy everywhere save in South Carolina, Heaven, and a few other out-of-the-way corners.

To avail myself of a distinction by Tönnies,<sup>11</sup> we of the West are through and through "associational" rather than "communal." And contract is the instrument par excellence of association; it alone can get social continuity out of atomistic contiguity. Now contract implies an indispensable measure of equality, not merely because it demands by definition a meeting of minds, not merely because the analysis that precedes and requires contract for remedy has left nothing important from which to weave distinctions, but also because without an implied equality of bargaining strength these discrete social entities will, by hypothesis, fail to find adequate for contractual motivation the proffered *quid pro quo*. I speak of course still of the Occident, where politics purports to be, or aspires to become, a science. Where politics at its worst is plain despotism, at its best *noblesse oblige*, neither contract nor equality is implied; but with us the atomism that arises from initial analysis can be remedied only by contract. And contract as the instrument of legality is sufferable only by the imputation of equality.

Note how this matter appears to one who understands the West but is of the East. Of Japan as a "community," Professor

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<sup>10</sup>This whole point is set in a more generous perspective in my chapter of *Chicago: An Experiment in Social Science Research*. (Edited by T.V. Smith and Leonard D. White, published by the University of Chicago Press, 1929.)

<sup>11</sup>Tönnies, *Gemeinschaft und Gesellschaft*, p. 9.

Fujisawa further argues that the correlations of individuals within society are psychologically little different from those of brothers and sisters in blood. With consciousness purged, as he goes on, from its natural proneness to unbridled selfishness, the members of a community are loath to acquiesce in the formal assumption that all men are created equal; on the contrary they do admit frankly of the substantial inequality of human beings as regards their intellectual ability as well as their moral quality. Of European nations as "associations," he says: "They are too much rationalized to be able to take notice of the invisible links which bind the living with the dead [into a community.]"<sup>12</sup> "I conjecture from my personal experiences in Western Europe that an abnormally immoderate hankering after self-assertion, regardless of innate endowments, has given rise to the theory of human equality."<sup>13</sup>

Without passing judgment upon this astute etiological remark, we may admit that it helps us to see from a new angle the indispensability of the equality ideal for our political enterprise. By the foregoing twofold approach, equality stands revealed not only as a mediator between other ideals, such as liberty on the one hand and fraternity on the other, but also as the basal significance of other major political ideals. Without it liberty becomes a class presumption, fraternity a pious sentimentalism, and justice an empty fiction. Equality becomes, in the terminology of Henry Sidgwick,<sup>14</sup> a final dictate of intuition; and to ignore it appears, as he argues, to impeach not only one's humanity but one's rationality as well. This lodestone of rationality, this generalized means for other high political virtues becomes thus the political virtue par excellence and the regulative ideal for political science.

So far, however, I have been considering equality in the context furnished by other ideals, using conduct and practice only for purposes of critical orientation. We ought now to examine the relation between the ideal in politics and political practice. If we have in equality a sort of distillation of all political ideals, as I have been arguing, this task is made easier; for we can get light upon the relation between conduct and ideals merely by

<sup>12</sup>*Ibid.*, p. 435.

<sup>13</sup>*Ibid.*, p. 429.

<sup>14</sup>*The Methods of Ethics*, Book III, ch. 13.

inquiring the influence of this one upon political practice. Let us conclude briefly with such an inquiry.

### III

What indeed can such an ideal as equality have to do with practice, some critic is already impatiently demanding. So contrary to fact is it that it is and must remain a mere ideal. I cannot resist the philosophic perversity of replying to this, What after all is a "mere ideal?" Most assuredly a mere ideal would be an unconceived ideal, one neither seen nor heard nor imagined by any mind; for if an ideal is so much as intuited in the faintest clairvoyance, it means that something in the environment has sensitized some mind to it. Mind with cosmic roots cannot be dismissed by any "mere." Perhaps a remark upon the life history of ideals as they pass to actualization might clarify the practical significance of this equality ideal.

The minimum efficacy of ideals is well described by a southern novelist of last generation—James Lane Allen.

There are those ideals that correspond to our highest sense of perfection. They express what we might be were life, the world, ourselves, all different, all better . . . . They are not useless because unattainable. Life is not a failure because they are never attained . . . . They are like lighthouses; they are meant to shine on us from afar, when the sea of our life is dark and stormy.<sup>15</sup>

It is clear that we do use the term ideal to describe this type of experience—a type hitherto almost monopolized by religion. Such ideals are born of experiences so hopeless that we do not conceive ourselves as able to do anything about them, and consequently we resign ourselves to luxuriate in dreams of what the world might really be if it were not what it is. They constitute the tragedy—and the comedy—of our having a reach that so far exceeds our grasp. The equality of which helpless slaves have dreamed represents our present ideal at this stage of influence. The nearest approach to a mere ideal is constituted by this type of compensatory response to hopeless situations. In gloom, perhaps superinduced by riding down to the Agora one morning beside some dirty Athenian silver miner on a democratic trolley car, Plato declared of his own dream of social betterment: "Perhaps there is laid up a pattern of it in heaven for him who wishes to behold and beholding to organize himself

<sup>15</sup>*The Choir Invisible*, pp. 312-316.

accordingly. And the question of its present or future existence on earth is quite unimportant."<sup>16</sup>

But that an ideal's career is difficult to arrest at this esthetic level is indicated by the *obiter dictum* dropped by Plato in the foregoing quotation: "will organize himself accordingly." Ideals are never wholly otiose; they leave the beholder different from what he otherwise would have been. If ideals may be described, after Immanuel Kant, as "Regulative Principles," they begin by regulating the contemplative self. Moreover, in this way they exert an influence that no wise politician should ever overlook in keeping alive for a more favorable day a vision of a better order. If they cannot establish themselves positively, they work negatively to prevent opposing ideals from being as effective as they might otherwise be. If through periods of stagnated peace they must remain too long in heaven, then one day when the cauldron of change boils merrily and earth has become a hell, they will make up through revolution for time lost from evolution. For the latter method, remember Russia. For the former, note in our own country the Sherman Anti-Trust Act. All legislative acts and judicial decisions that inhibit the growth of inequality are but equalitarian ideals travailing to difficult birth. In hard circumstances, they also serve who only stand and filibuster.

The more affirmative functioning of ideals is very well set out by our same novelist-philosopher in these words:

There are ideals of another sort; it is these that we lack. As we advance into life, out of larger experience of the world and of ourselves, are unfolded the ideals of what will be possible to us if we make the best use of the world and of ourselves, taken as we are. Let these be as high as they may, they will always be lower than those others . . . . These will always be imperfect; but life is not a failure because they are so. It is these that are to burn for us, not like lighthouses in the distance, but like candles in our hands. At first we will have disappointments and sufferings—the world on one side, unattainable ideals of perfection on the other. But by degrees the comforting light of what we may actually do and be in an imperfect world will shine close to us and all around us more and more. It is this that will lead us, never to perfection, but always toward it.<sup>17</sup>

When we see equality in this light, we may set ourselves to compromise and to achieve. We set up public schools at public expense, thus equalizing access to one great human good. We

<sup>16</sup>*Republic*, 592.

<sup>17</sup>*Op. Cit.*, pp. 312-316.



come gradually to distribute major public utilities at public expense. We experiment in professions and elsewhere with indirect ways of distribution. Note, for example, how the modern physician, in spite of his devotion to an ethical and organizational stereotype, nevertheless charges differential fees so that he may serve the very poor as well as the wealthy. He touches Peter's purse to pay for Paul's appendectomy, even though his heart stops at the name of bolshevism and his face goes red at the suggestion of organized medicine.

When this attitude comes to be thoroughly conscious as nascent equalitarianism, it manifests itself in such ways as the Sixteenth Amendment to our Federal Constitution, adjusting taxation on a sliding scale so that, though men may make all the wealth they can, the government will redistribute a portion of it. To become alarmed at this tendency, as does Professor Burgess in his *Constitutional Changes in the U. S. Since 1898* and elsewhere is but to fail to recognize the influences that go on in a democracy, willy-nilly. To ignore is not to inhibit. Ideals will out in one way or another; for as our wise novelist again has it,—

Life is not the opposite banks of a river, a bank of the actual on which we stand and a distant opposite bank of the ideal to which we would often cross. Life is no such banks. Life is the river itself, one river in which the actual and the ideal flow commingling. That river is our one voyage; its waters are our only cup. . . . Learn to drain the cup of the commingled actual and ideal and to find the mixture—*drinkable!*<sup>18</sup>

Of those greater inequalities today between men and corporations and between mere men and the Great Leviathan in whose vast entrails, as Hobbes vividly put it, men are but worms, I do not here speak save to suggest that we must hold that any legal entity larger than the individual must be tested by its efficiency in discovering the best by maintaining equality of opportunity for even the worst. But of the inequalities between men themselves, let me hazard a final word. They will not pass rapidly, not even by revolution. Perhaps we do not wish them all to pass. Each age must judge for itself what measure of equality it desires. But the ideal of equality will remain with us as long as remain the poor. It will remain alive as long as political science endures, and remaining alive, it will have, roughly, whatever influence

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<sup>18</sup>James Lane Allen, *Century Magazine*, March, 1922, p. 688.

you and yours desire it to have. In overhearing recently an ingenious colloquy between Mr. George Bernard Shaw and an intelligent woman, I could not but observe that a flat equality of income, such as that proposed by Mr. Shaw, is far from the facts as we know them today. But I was also forced to remember that hardly more than a half century ago, his own England would have regarded this proposal as no more than a pipe dream, whereas his discussion on this matter today with an intelligent woman is overheard with hardly a smile by all England, indeed by all the civilized world, and, being overheard, takes even this type of equalitarianism out of the realm of pure fantasy. For thus it is that dreams of the restless night pass into facts of sober day, that ideality becomes—when become it does—reality.

## GEOGRAPHY AND THE SUPREME COURT

By CORTEZ A. M. EWING

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The unique position of the Supreme Court in the constitutional system of the United States has invited the attention of a host of able scholars and, as a result, there is a satisfying volume of literature upon that subject. But there remains an almost virgin field for investigation. Little has been actually accomplished in determining the various techniques which the judges of the Court employ in the making of their decisions. Do the Supreme Court justices minutely and carefully weigh the facts of the cases and the rules of law that might be applied, and then proceed to decisions in a systematic, if not scientific manner? Or, like ordinary mortals, do they possess certain visible prejudices upon matters of public policy, and proceed to the making of their decisions and the writing of their opinions with a clear intent of defending and expounding their own ideas of what the governmental policy should be?

In conformity with the facts of human variance, it may safely be assumed that each judge employs a technique in arriving at his decision that is, conspicuously or otherwise, different from the technique of every other judge on the bench. The Jamesian "sensible facts" of the individual judge's sense of values and his methodology of intellect in making decisions may be of as much importance in the Court's rulings as the facts of the case, for the latter must be interpreted by the "sensible facts" of the judges who constitute the Court.

This study was begun in an effort to ascertain whether the geographical or sectional origins of the members of the Supreme Court have, or have not, had a manifest influence upon the decisions of that body. The well-known studies of Dr. Frederick Turner have revealed that sectionalism has indubitably influenced the course of American history, and that members of Congress have consistently supported sectional interests even at the cost of ignoring party as well as broad national principles. What differences in political make-up result from grossly unlike environmental origins; between a boy reared on an out-of-the-way Dakota homestead and another boy of the same age who grew up among the multitudinous regulations and complexities of New York City;



between the son of a Massachusetts minister and the son of a Texas planter; or between the son of a Maine merchant and one of a Mississippi merchant?

To bring men of such diverse origins to the same unprejudiced and impersonal interpretation of rights, duties, and even of the Constitution of the United States, would, it seems, require more common experiences than are to be found in mere preparation for the legal profession. Further, to essay a solution of the Gordian knot of human variation is a problem of large compass, begotten only by a monstrous confidence. A Supreme Court of automatons is undesirable, impossible, fantastic. Such a dream is without the scope of the discussion. However, the determination of a definite rule of judges' technique by which they arrive at their decisions, would be worth while and would result, in proportion to the importance of that rule, in a better understanding of the United States polity.

Simultaneously with that of geographical origin, the problem of appointment, whether by a Republican or a Democratic president, has been considered with the same purpose in view. Only those five-to-four decisions of the Court in police-power cases involving due process of law were selected for the study. Cases decided by five-to-four decisions ought best to portray these sectional or political influences, if they actually exist, due to the fact that such are marginal cases or cases in which there is at least grave doubt as to the decision that should obtain.

In initiating the study, the country was arbitrarily divided into three sections—the North, the South, and the West. The North was made to include all the states that lie to the north of the Mason-Dixon Line, the Ohio River and the northern boundary of Missouri, and all east of a line running south from the northwestern corner of Minnesota, thereby leaving Minnesota and Iowa in the North and Missouri in the South. The line of demarcation between the South and the West left Texas and Oklahoma in the South and Kansas in the West. Any such division must be arbitrary. There are many "doubtful" states. Kentucky is a state in question: does it rightfully fall into a northern or a southern classification? In opinion Kentucky moves north each year. Even more does Oklahoma defy classification; one section

looks toward Dallas and New Orleans, but there is a larger section, the great wheat-growing area, that is as western as Kansas or Nebraska.<sup>1</sup>

During the forty-five-year period (1880-1925), no less than thirty-eight judges saw service on the Supreme Bench. The length of their individual terms ranged from the fragmental part of a year to the thirty-two-year term of Justice Harlan of Kentucky.<sup>2</sup> These thirty-eight judges served a composite total of four hundred and three years, of which the northern-derived judges served two hundred and ten years, the southern ninety-seven, and the western, ninety-six. Reduced to percentages, the North had 52 per cent of the total years, while the South and West divided the remaining 48 per cent almost equally. The Supreme Court, of course, has never been considered a department of government whose personnel is chosen primarily upon a basis of geographical or sectional representation. It is even less pronounced than the President's Cabinet in this respect. Yet the charge has been repeatedly hurled at the Court, that it was the tribunal for a particular section—the North—is easily confuted. If the positions on the bench were filled upon the basis of population, the North would have been entitled to more than 52 per cent of the total.

During the period, the theory of passing the judgeships around among the several states was not practiced with even an amateurish consistency. Twenty-nine states had no citizens appointed to the Court. On the other hand, Ohio had six, New York five, and Massachusetts and Tennessee had four each. What reason can be given in explanation of this feature? As a matter of fact, the Presidents have not always selected judges from states dominated by the party in power. The Republicans, Hayes and Taft, nominated Woods and Lamar, both of Georgia. Surely it cannot be contended that by these appointments the Republicans hoped to gather any considerable harvest of votes. But, on the other hand, did Ohio, New York, Massachusetts, and Tennessee receive their extraordinary number of appointments

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<sup>1</sup>Minnesota might well have been placed in the West, and indeed her rural sections are certainly western, but the presence of citizens of immediate or remote New England origin, of large cities, and the iron range bring to it a strong northern influence.

<sup>2</sup>In all Justice Harlan served thirty-five years on the Supreme Court, being appointed in 1877. However, because of the delimitation of time in this study, only the last thirty-two years are apposite.

because they were closely contested states and were, for this reason, legitimate appointing grounds for both parties? During this period these four states received only one less appointment than the other forty-four states combined.<sup>3</sup> This feature seems significant. It may in part be explained by the fact that these states have had outstanding state judicial systems; but, again, the reputations of these state courts have certainly been enhanced by the number of graduations to the national Supreme Court.

Of the twenty-nine judges receiving appointments between 1880 and 1925, the two Democratic Presidents chose seven, while the Republican Presidents selected twenty-two. Four of the Democratic choices were from the North and three from the South; none was from the West. The Republicans appointed two from Georgia and three from Tennessee, five from the West, and twelve from the North.<sup>4</sup> The question of the relative number of years which each state had citizens on the bench is of some importance. The following table shows "representation" on the bench during the period:

TABLE I

States	Appts.	Total Years	States	Appts.	Total Years
Massachusetts	4	57	Tennessee	4	20
Ohio	6	47	Michigan	1	16
California	2	44	Wyoming	1	15
New York	5	34	Georgia	2	13
Kentucky	1	32	Pennsylvania	2	11
Louisiana	1	27	Iowa	1	10
Illinois	1	22	Mississippi	1	5
New Jersey	2	22	Minnesota	1	3
Kansas	1	21	Maine	1	1

During the forty-five-year period there were thirty police-power cases involving due process of law in which four judges

<sup>3</sup>It must be acknowledged, of course, that ten states came into the Union after 1880.

<sup>4</sup>Those nine sitting on the Bench when the 1879 October term began, are not included in the column designating appointments. And the table shows service only between 1880 and 1925.

dissented from the majority opinion. Others have been five-to-three or four-to-three but, as there is no way of ascertaining whether the cases would have ended in five-to-four decisions if the full court had been sitting, it was deemed advisable to follow a strict interpretation of "five-to-four."<sup>5</sup> Likewise, duplicate cases have not been counted; for instance, in the litigation arising from the employers' liability law in Arizona, five cases were decided by the same Supreme Court decision, but only one was included in this study.<sup>6</sup> These thirty cases are entirely too few in number upon which to base a sweeping generalization. However, they may reveal a tendency that can be verified in a more adequate investigation.

The following table shows the individual records of the judges as majority or dissenting judges:

TABLE II

Justice	With maj.	With dis.	Justice	With maj.	With dis.
Waite		1	Brown	7	7
Gray	9	1	McKenna	16	12
Bradley		1	Fuller	10	6
Woods		1	Moody		1
Brewer	7	10	Lamar (Ga.)		1
Field	1	1	Holmes	13	7
Jackson		1	Day	13	6
White	11	16	Hughes	1	
Shiras	5	4	Pitney	8	5
Miller	1		Van Devanter	4	8
Matthews	1		McReynolds	4	9
Blatchford	1		Brandeis	8	4
Peckham	5	10	Clarke	9	3
Harlan	12	5	Taft	2	

Gray, with nine to one, leads the list in percentage of times on the winning side; but he is closely followed by Clarke, with

<sup>5</sup>For instance, there is every reason to believe that Justice Brandeis would have dissented in the *Adkins-Children's Hospital* case if he had participated in the decision of the court.

<sup>6</sup>See *Arizona Copper Co. v. Hammer*, 39 Supreme Court Reporter 553.



nine and three; Harlan, with twelve and five; Brandeis, with eight and four; and Holmes, with thirteen and seven. These judges are those who have been repeatedly designated as the "liberal" members of the Court. Van Devanter, McReynolds, White, Brewer, and Peckham lead in number of dissents. The case of McKenna is extremely unusual. In his early years on the bench he opposed White and Peckham, but later he joined with White, McReynolds, and Van Devanter in championing the cause of individual rights. As his complete record reads, he, like Brown and Pitney, stands in the center-ground, with about an equal number of winning and dissenting opinions.

Some significant combinations are revealed in the record of how each judge voted in relation to other members of the Court. Shiras and Fuller were together in ten of eleven cases. McKenna and Gray voted together in seven of eight cases. White and Gray were together in only three of nine cases. Gray was succeeded by Holmes in 1902. So, before 1902, McKenna was voting with the public necessity group against the individual rights supporters; yet before 1921, the culmination of Chief Justice White's long service, he and McKenna had voted together in thirteen of twenty-five cases. This shows the gravitation of McKenna to White. Holmes, successor to Gray, voted with McKenna in only five of nineteen cases, yet he was with Harlan, who supported Gray, in four of six cases. Peckham voted with White in nine of ten cases. They were both appointed by a Democratic President, but came from different geographical sections.<sup>7</sup> The former was against Gray in seven of eight cases. Fuller supported Gray in seven of nine cases; Shiras was with Fuller in ten of eleven decisions and he was against Brown in nine of ten cases. Harlan generally teamed with Gray and he supported McKenna on ten of fourteen decisions. Harlan retired from the bench before McKenna began to vote against the extension of police power.

By 1916 there was a different line-up. McKenna was to be found with White, McReynolds, and Van Devanter. Opposed were Brandeis, Day, Clarke, and Holmes. Pitney stood in the middle ground. During his earlier years on the bench, Holmes was not the unwavering champion of the public necessity theory that he later came to be. But after Brandeis and Clarke were appointed, they with Holmes formed a staunch trio, standing

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<sup>7</sup>White came from Louisiana; Peckham from New York.



together in eleven of twelve cases. Day was a regular member of this group, voting with Brandeis in nine of twelve cases and with Clarke in ten of twelve; but strange to say, Day was also with Pitney in ten of thirteen cases, which shows that when one bolted, the other was likely to go with him; or that they both broke over on the same kinds of cases. Day opposed White in thirteen of fifteen decisions; Holmes opposed White in only nine of seventeen cases, which shows that Holmes was supporting White before the coming of Brandeis and Clarke, because Day and Brandeis were together in eleven out of twelve cases and with Clarke in ten of a dozen cases, proving again that Holmes was voting with White more before 1916 than after that time.

Brewer occupied a peculiar position. During his twenty-one-year service, he was not a regular in either group. In six cases, he and Holmes were never together. The Kansas member was the Pitney of his period. He voted with White in only eight of fifteen cases and with Peckham in eight of fourteen cases, yet he was with Harlan in only three of fourteen cases. McReynolds and Van Devanter found one another's viewpoints quite agreeable. They were together in eleven of twelve cases. The former voted with White in eleven of thirteen cases, and Van Devanter supported White one less time in the same number of decisions. The two had the same relation to McKenna as they had to White.

In summary, it certainly can be said that there were definite alignments and opinions represented on the bench and that these were mirrored in the usual combinations found in majority and dissenting opinions. After all, what was the real cause for these definite combinations? Classification of the thirty cases may throw some light upon the problem. Of the thirty cases, nine were initiated to test the constitutionality of Federal statutes.<sup>8</sup> The following table reveals how the individual judges voted on the cases, either to uphold or deny the laws:

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<sup>8</sup>The cases included in this classification were: *U.S. v. Lee*, 106 U.S. 196; *Champion v. Ames*, 23 Sup.Ct. 321; *Northern Securities Co. v. U.S.*, 24 Sup.Ct. 436; *Howard v. Illinois Central Railroad Co.*, 28 Sup.Ct. 141; *U.S. v. Doremus*, 39 Sup.Ct. 214; *Webb v. U.S.*, 39 Sup.Ct. 217; *Wilson v. New*, 37 Sup.Ct. 298; *Calhoun v. Massie*, 40 Sup.Ct. 474; and *Block v. Hirsh*, 40 Sup.Ct. 458.

TABLE III

Justices	For	Against	Justices	For	Against
Harlan	3	1	Miller	0	1
Gray	1	0	Field	0	1
Waite	1	0	Matthews	0	1
Bradley	1	0	Blatchford	0	1
Woods	1	0	Fuller	0	3
Brown	2	0	Brewer	1	2
Shiras	0	1	Peckham	0	3
Moody	1	0	Holmes	7	1
White	3	5	McKenna	4	4
Day	5	2	Pitney	3	2
Brandeis	5	0	Van Devanter	0	5
Clarke	5	0	McReynolds	0	5

The significant feature of the above record is, of course, the consistency of Clarke, Brandeis, Day, and Holmes in supporting, and of Van Devanter, McReynolds, Peckham, and Fuller in opposing the statutes. White was indecisive, as were McKenna and Pitney.

Holmes dissented in the Northern Securities case, but in so doing he said that he did not doubt the constitutionality as upheld by the lower court; he only doubted that the interpretation of the anti-trust law should go as far as to prevent all monopolies. It was, in his opinion, an example of *bellum omnium contra omnia*, inasmuch as every railroad was, after a manner, a monopoly in the district through which it passed. The other dissenting judges, Fuller, Peckham, and White, saw too fundamental an invasion of the rights of private property in the decision of the Court.

The decisions on the cases arising from the Federal statutes, with regard to the geographical and political origins of the judges, are illustrated in Table IV.

The principal observation to be gathered from Table IV is that the South and the West opposed the North in its conception of what constituted a legitimate governmental interference with private rights. While the test was applied only to nine cases,

scattered over a forty-year period, the fact that the northern-derived judges voted more than two-to-one for the statutes ought to be of some significance. From neither the South nor the West was there an equal number of votes in favor of as against the statutes. The question of whether the appointment had anything to do with the way the members of the Court voted seems, in these cases, to carry some conviction that those nominated by Republican Presidents were more inclined to support governmental control than were those selected by Cleveland and Wilson. However, the political aspect is less convincing than the geographical or sectional.

TABLE IV

	For <sup>a</sup>	Against	Total
Republican appointment	30	20	50
Democratic appointment	13	18	31
<i>Sectional Aspect</i>			
North	31	14	45
West	5	13	18
South	7	11	18
	43	38	81

Thirteen cases came before the court testing the constitutionality of state legislation.<sup>10</sup> Of these, ten were upheld. Table V shows how each judge voted.

Four of the judges—Gray, Holmes, Brandeis, and Clarke, first three from Massachusetts—kept up their record in supporting constitutional validity. With these judges the presumption of constitutional validity seems to have been an important factor in their judicial techniques. In five cases, McReynolds and Van Devanter opposed the laws every time. Brewer voted with their

<sup>a</sup>"For" means the upholding of the statutes *in re* constitutionality.

<sup>10</sup>The cases testing state legislation were: *Brass v. North Dakota*, 14 Sup. Ct. 857; *Lake Shore & M.S.Ry.Co. v. State of Ohio*, 19 Sup.Ct. 465; *Atchison, T.&S.F.Ry.Co. v. Matthews*, 19 Sup.Ct. 609; *Lindsey & Phelps v. Mullen*, 20 Sup.Ct. 325; *Tyler v. Judges of the Court of Registration*, 21 Sup.Ct. 206; *Austin v. Tennessee*, 21 Sup.Ct. 132; *Pabst Brewing Co. v. Crenshaw*, 25 Sup.Ct. 552; *Lochner v. New York*, 25 Sup.Ct. 539; *Mountain Timber Co. v. Washington*, 37 Sup.Ct. 260; *Adams v. Tanner*, 37 Sup.Ct. 662; *Arizona Copper Co. v. Hammer*, 39 Sup.Ct. 553; *Marcus Brown Holding Co. v. Feldman*, 41 Sup.Ct. 465; and *Truax v. Corrigan*, 42 Sup.Ct. 124.

group in six of his nine decisions. White did not in these cases vote for constitutional validity after 1905; before that time he had voted five times for and three against state laws.<sup>11</sup> The story of McKenna's switch is clearly brought out in these cases; before and in consideration of *Lochner v. New York* he had supported state legislation in five of seven cases; from thence until his retirement he cast a solid block of anti-constitutionality votes.<sup>12</sup> Thus he supported Van Devanter and McReynolds in five cases without exception. In four of these White also concurred.<sup>12</sup> The records of Harlan and Fuller are indecisive, but Day usually supported constitutionality and Peckham usually voted against it. Pitney voted four to one for the state laws.

TABLE V

Justices	For	Anti	Justices	For	Anti
Fuller	4	4	Harlan	5	3
Gray	6	0	Brewer	3	6
Field	0	1	Jackson	0	1
Brown	3	4	Shiras	3	3
McKenna	5	7	White	5	7
Peckham	2	5	Holmes	7	0
Day	5	2	Pitney	4	1
Brandeis	5	0	McReynolds	0	5
Clarke	5	0	Van Devanter	0	5
Taft	0	1			

The geographical and political aspects of the thirteen decisions appear in Table VI.

The foregoing table reveals that the judges chosen by Republican Presidents were favorable to state legislation, and that those selected by Democratic Presidents were equally divided upon the cases. Thus, with the latter it is an even balancing

<sup>11</sup>These statements, of course, have reference only to the thirteen cases under discussion.

<sup>12</sup>These four cases were: *Mountain Timber Co. v. Washington* (1917); *Adams v. Tanner*, (1917); *Arizona Copper Co. v. Hammer*, (1919) and *Marcus Brown Holding Co. v. Feldman*, (1921). *Truax v. Corrigan*, (1922) was decided after the death of White, with Taft voting with McKenna, Day, Van Devanter, and McReynolds against the law.

of the old states' rights theory with that of individual rights. The North again voted preponderantly in favor of the further extension of governmental regulation; the South and the West opposed. In both the Federal and State cases, the geographical influence has appeared much more decisive than the political.

TABLE VI

Justices	For	Against	Total
Republican Appointment	41	34	75
Democratic Appointment	21	21	42
<i>Sectional Aspect</i>			
North	44	20	64
West	8	19	27
South	10	16	26
	62	55	117

There were six cases involving municipal ordinances.<sup>13</sup> The following table records how the individual judges voted, either to uphold or deny their constitutionality:

TABLE VII

Justices	For	Anti	Justices	For	Anti
Harlan	5	0	Brown	1	4
Peckham	1	4	Brewer	1	4
Fuller	4	1	Shiras	3	0
Gray	3	0	White	1	5
McKenna	4	2	Holmes	2	1
Day	2	1	Hughes	1	0
Lamar (Ga.)	0	1	Pitney	0	1
Van Devanter	1	0	McReynolds	1	0

These cases are really not a good test. Four of them were concerned with the right of a municipality, in the interests of

<sup>13</sup>They were: *West Chicago Street Ry. Co. v. Ill. ex. rel. Chicago*, 26 Sup. Ct. 518; *Brand v. Union Elevated Ry. Co.*, 35 Sup.Ct. 846; *Knoxville Water Co. v. Knoxville*, 26 Sup.Ct. 224; *Danville Water Co. v. Danville*, 21 Sup.Ct. 505; *Rogers Park Water Co. v. Fergus*, 21 Sup.Ct. 490; and *Freeport Water Co. v. Freeport*, 21 Sup.Ct. 493.



the public, to alter the franchise of a water company. Holmes broke over to the side of the individualists in *Knoxville Water Co. v. Knoxville*, but gave no dissenting opinion from which his reason might be ascertained. Day voted with McKenna, Lamar, and Pitney in *Brand v. Union Elevated Railway Company*, opposing the view of the majority of the Court that it was not a deprivation of property without due process of law for a city council to grant rights to construct public utilities which would prevent a natural increase in the value of adjacent property.

The following table shows the geographical and political aspects of the decisions in the six cases:

TABLE VIII

Justices	For	Anti	Total
Republican appointment	23	14	37
Democratic appointment	7	10	17
<i>Sectional Aspect</i>			
North	17	12	29
West	6	6	12
South	7	6	13
	30	24	54

Little change, except that the South gave a majority of its votes in favor of the police-power measures!

One ruling of the Federal Trade Commission was upheld, with Taft, Day, Van Devanter, Pitney, and Clarke voting in the affirmative, and Holmes, McKenna, Brandeis, and McReynolds dissenting. The constitutional question was not raised in the majority opinion, but McReynolds raised it in dissenting. Holmes and Brandeis voted against the ruling because, as they said, the anti-trust law should apply only to competition in original sources. They upheld the company on the ground that it was holding its goods wholly within the law. A questionable merchandising system furnished the cause for the litigation.<sup>14</sup>

One case involving the validity of a ruling by a state commission came before the Court. It was the case of *Vandalia Railway Co. v. Schnull*, initiated because the Indiana Railroad Commission had set a maximum rate for intrastate freight tariffs.

<sup>14</sup>*Federal Trade Commission v. Beech-Nut Packing Co.*, 42 Sup.Ct. 150.

The Court reversed the Indiana Supreme Court and declared the ruling to be too great an infringement upon the right of a railroad to acquire revenue. Holmes again voted with the individualists (White, McKenna, McReynolds, and Van Devanter). Day, Brandeis, Clarke, and Pitney upheld the ruling and the state court. Incidentally, it was the only case of those herein considered in which Holmes and Brandeis voted on opposite sides.

The following table reveals the political and geographical aspects of the votes in the two cases:

TABLE IX

Justices	For	Anti	Total
Republican appointment	6	5	11
Democratic appointment	3	4	7
<i>Geographical Aspect</i>			
North	8	3	11
West	1	3	4
South	0	3	3
	9	9	18

Since these various classifications have been considered, it follows that it is only right and proper that the combined geographical and political findings should be included in one table. Table X shows those who upheld, or denied, individual rights as against governmental invasion. The results of the summary are:

TABLE X

Justices	For the laws	Against the laws	Total
Republican appointment	100	73	173
Democratic appointment	44	53	97
<i>Sectional Aspect</i>			
North	100	49	149
West	20	41	61
South	24	36	60
	144	126	270

The foregoing table may be regarded as evidence, so far as these cases are concerned, that there is some correlation between Democratic appointment and the minimum of government theory.

But the most significant revelation appears in the influence which the geographical origins has apparently had upon the votes of the judges. The South's record on regulation through the agency of police power was none other than might have been expected, but the West showed itself even more individualistic. Those judges coming from the broad, open spaces were evidently saturated with the individualistic concept; and their record in opposing police-power measures in 60 per cent of the cases furnishes sufficient evidence to justify that contention. The record of the North is even more convincing, as 67 per cent of its votes were cast upholding the use of the police power. The fact that the western judges were appointed by Republicans seems to have had no influence upon their decisions which, again, bears out the contention that the theory of individual liberties has substantial currency in the newer states.

The thirty cases have also been considered from a different viewpoint. Attention will now be given to a classification of them according to the nature of the regulation or to the excuses under which such regulation was imposed. Of the thirty cases, there were only five in which the protection of public health was the major issue involved.<sup>15</sup> The following table shows how the individual judges voted in those five cases:

TABLE XI

Justices	For	Anti	Justices	For	Anti
Holmes	4	0	Day	3	1
Pitney	2	0	Brandeis	2	0
Clarke	2	0	White	3	2
Harlan	3	0	Peckham	1	2
McKenna	2	3	Gray	1	0
Brown	1	2	Fuller	0	3
Brewer	0	3	Shiras	0	1
Van Devanter	0	2	McReynolds	0	2

Again, the two groups remain intact. In one group are Holmes, Pitney, Clarke, Brandeis, and Harlan; this group supported the measures. Opposed were McReynolds, Van Devanter, Fuller,

<sup>15</sup>They were: *U.S. v. Doremus*; *Webb v. U.S.*; *Lochner v. New York*; *Pabst Brewing Co. v. Crenshaw*; *Austin v. Tennessee*.

Brewer, and Shiras. The latter participated in but one case of this classification; generally, he voted with the other group.

The following table portrays the geographical and political aspects of the votes in these cases:

TABLE XII

Justices	For	Anti	Total
Republican appointment	16	12	28
Democratic appointment	8	9	17
<i>Sectional Aspect</i>			
North	16	9	25
West	2	8	10
South	6	4	10
	24	21	45

There is nothing new in the results of these cases from a geographical viewpoint. The southern total in favor of health measures was materially boosted by the favorable votes of Harlan, who usually voted with the northern-derived judges.

One case involving public safety was considered. It was the *Atchison, Topeka, and Santa Fe Railway Company* case. Gray, Fuller, Brewer, Shiras, and White supported the state law imposing the regulation; Harlan, Brown, Peckham, and McKenna dissented. The usual Peckham-White combination was split in this decision. Harlan was also found in a new rôle; in this case he doubted that railroads could be classified in the manner prescribed by law without infringing upon the "equal protection of the laws" guarantee.

*Champion v. Ames* was the only case in which the public-morals question overshadowed the other features. Harlan, Brown, Holmes, White, and McKenna upheld the prohibition of lottery tickets from interstate commerce by the Federal Government. Fuller, Brewer, Shiras, and Peckham favored state control of the problem and, therefore, dissented from the decision. The case hinged upon whether lottery tickets should really be classified as goods or not, and whether the Federal Government should define them to be so and, thereby, exclude them from interstate commerce. If they were classed as goods, might not a future government at Washington repeal the act and force the entry of lottery tickets into protesting states?

The remaining twenty-three cases may be classified as being public-welfare cases. It will hardly be necessary to tabulate the votes of the judges or the geographical and political aspects of those voting for and against. It does seem desirable, however, to consider for a moment the cases involving labor. There were seven of them.<sup>16</sup> The following table will show how the individual judges voted in these cases:

TABLE XIII

Justices	For	Anti	Justices	For	Anti
White	2	4	Holmes	7	0
McKenna	2	5	Brandeis	5	0
Day	4	3	Clarke	5	0
Van Devanter	0	5	Harlan	2	0
McReynolds	0	5	Pitney	3	2
Moody	1	0	Brown	0	1
Fuller	0	2	Brewer	0	2
Peckham	0	2	Taft	0	1

A glance will reveal that Holmes, Brandeis, Clarke, and Harlan were most favorable to labor, not having voted against it a single time. On the other hand, Van Devanter, McReynolds, Fuller, Peckham, and Brewer opposed it on every occasion. The geographical and political tables ought to reveal something of the reasons for their particular positions on the question:

TABLE XIV

Justices	For	Anti	Total
Republican appointment	19	19	38
Democratic appointment	12	13	25
<i>Sectional Aspect</i>			
North	25	11	36
West	2	12	14
South	4	9	13
	31	32	63

<sup>16</sup>They were: *Lochner v. New York*; *Wilson v. New*; *Howard v. Ill. Cen. R.R. Co.*; *Truax v. Corrigan*; *Arizona Copper Co. v. Hammer*; *Adams v. Tanner*; *Mountain Timber Co. v. Washington*.



The geographical influence seems significant; the political is of no importance whatever. The real strength for the support of labor came from the North, where labor has acquired respectability, strong leadership, and a sane industrial policy. The South has its own peculiar labor problem gyrating around the relationships resulting from dominant and subservient races. As a political factor the influence of the southern negro is negligible. Nor are the negro laborers sufficiently organized to influence the wages and conditions of labor. Furthermore, the direct and personal form of labor contract still prevails between employer and employee. In the West labor has not always commanded popular respect. Agitations centering around the activities of the I. W. W. have not always found the public on the side of the workers. Neither of the above prejudices are important factors in the North, where collective bargaining and trade unionism are generally accepted.

The only other classification that will be considered is the one involving the right of contract. In seventeen of these cases, this was a most important issue.<sup>17</sup> The following table will show

TABLE XV

Justices	For	Anti	Justices	For	Anti
Fuller	4	4	Brewer	6	2
Brown	5	2	Peckham	7	1
McKenna	10	7	White	12	3
Van Devanter	8	1	Day	3	11
McReynolds	9	0	Harlan	0	8
Pitney	3	6	Holmes	3	11
Taft	1	1	Brandeis	1	8
Shiras	0	3	Clarke	0	9
Moody	0	1	Gray	0	3

<sup>17</sup>They were: *Lochner v. New York*; *Block v. Hirsh*; *Calhoun v. Massie*; *Northern Securities Co. v. U.S.*; *Marcus Browning Holding Co. v. Feldman*; *Freeport Water Co. v. Freeport*; *Rogers Park Water Co. v. Fergus*; *Danville Water Co. v. Danville*; *Knoxville Water Co. v. Knoxville*; *West Chicago Street Ry. Co. v. Illinois ex. rel. Chicago*; *Federal Trade Commission v. Beech-Nut Packing Co.*; *Mountain Timber Co. v. Washington*; *Arizona Copper Co. v. Hammer*; *Howard v. Illinois Central Ry. Co.*; *Wilson v. New*; *Truax v. Corrigan*; *Adams v. Tanner*.

how each judge voted on the question of the right of contract when it was threatened by police-power regulation. The table is constructed from the positive viewpoint—"for" means in favor of the individual right of contract.

The table is extremely interesting. There probably is no distinct Democratic way of dealing with labor or municipal corporations or interstate commerce, but there is a Democratic way of looking at individual liberties and the right of contract. It means less government—a minimum of regulation! If one assumes this old and time-worn explanation of the *raison d'être* of parties, then the situation becomes significant. So, let us, *arguendo*, suppose that Democrats are opposed to governmental infringement of the individual right of contract. White, Brewer, and McReynolds ran true to form; the same is also true of Peckham. But Brandeis and Clarke were even more pronounced the other way; the former voted eight of the nine times against the right of contract, while Clarke kept a clean slate in nine cases.

The following table will show the geographical and political aspects of the judges' votes:

TABLE XVI

Justices	For	Anti	Total
Republican appointment	39	56	95
Democratic appointment	33	25	58
<i>Sectional Aspect</i>			
North	27	60	87
West	24	10	34
South	21	11	32
	72	81	153

Again, the tendency of the northern-derived judge to support governmental invasion into the field of private rights is emphasized. The West was even more individualistic than the South, but the presence of the eight Harlan votes tends to distort the usual southern record.

As has been pointed out above, too much emphasis must not be placed upon the apparent results of the limited number of cases in this study. However, it is safe to say that the geographical aspect appears far more important than does political appointment in the decisions of the Court. The North has, on the

whole, been responsible for sustaining the application of police-power measures, while the West, individualistic, and still cognizant of the influence of the old geographical frontier, has surpassed even the South in protecting the rights of the individual against the government. Beyond these conclusions, little need be said, save to comment upon the individual records of the judges.

With the coming of Brandeis and Clarke, the governmentalists received a great boost. The passing of Chief Justice White marked the disappearance of a great champion of the individualistic conception, but he was not arbitrary; that is, he looked at other things than individual right, yet that idea certainly loomed large with him in making his decisions. From 1910 to 1925 Holmes carried far the doctrine of presumption of constitutional validity. In this he was ably seconded by both Brandeis and Clarke. Other peculiarities are noticeable in the voting of the judges in the thirty cases, but they have been commented upon in the course of the study, so there is little need for repetition.

As a summary Table XVII reveals how all the judges voted on these various types of cases. If a judge voted every time in favor of labor and yet did not oppose the freedom of contract in other cases it ought to throw light upon his method of judicial reasoning. Some may be found who supported health measures, but would not support labor; or vice-versa. The records of various judges in the thirty cases are shown in Table XVII.

Holmes voted every time for public-health measures and, likewise, for labor, but he voted three times for the freedom of the right of contract. In this he would not go so far as Clarke or Brandeis. The latter two judges displayed a disposition to support almost any police-power measure, which would imply that the presumption of constitutional validity bulked large with them. Harlan was equally favorable to such legislation. White voted three times to two in favor of health regulation, but where freedom of contract was the issue he supported individual right as against governmental interference. Brewer, Van Devanter, and McReynolds were even more inclined to see only the right of the individual. Peckham held substantially the same view. Despite the fact that he voted three times against health measures, Fuller came nearer standing in the center-ground than any other judge who participated in as many as eight of the cases considered.

TABLE XVII

Justices	Health		Safety		Right of Contract		Labor	
	For	Anti	For	Anti	For	Anti	For	Anti
Holmes	4	0	0	0	3	11	7	0
Pitney	2	0	0	0	3	6	3	2
Clarke	2	0	0	0	0	9	5	0
Brandeis	2	0	0	0	1	8	5	0
Harlan	3	0	0	1	0	8	2	0
McKenna	2	3	0	1	10	7	2	5
Brown	1	2	0	1	5	2	0	1
Brewer	0	3	1	0	6	2	0	2
Van Devanter	0	2	0	0	8	1	0	5
Day	3	1	0	0	3	11	4	3
White	3	2	1	0	12	3	2	4
Peckham	1	2	0	1	7	1	0	2
Gray	1	0	1	0	0	3	0	0
Fuller	0	3	1	0	4	4	0	2
Shiras	0	1	1	0	0	3	0	0
McReynolds	0	2	0	0	9	0	0	5
Moody	0	0	0	0	0	1	1	0
Taft	0	0	0	0	1	1	0	1

The political-origin influence is less marked than that of the geographical-origin. The table reveals some significant tendencies. On the one side was the group that showed a disposition to favor the attempts of legislative bodies to aid the public welfare through the assumption, by the government, of duties, which previously had been left to individual disposal. These judges were, for the most part, from the North. On the other side, stood an almost equally formidable group who apparently saw only that the rights of the individual were being maliciously and unnecessarily invaded by an arbitrary and tyrannical government. Generally they came from the South and West. In the first group were Holmes, Brandeis, Clarke, Day, Harlan, and Gray; opposed were Van Devanter, McReynolds, White, and Peckham. While, indecisive, in the center-ground, were Fuller, Brown, Pitney, Brewer, and Shiras. Each of these had particular kinds of cases in which

he favored one or the other of the groups. Brown usually favored the individualists on the right of contract; Shiras did likewise, but on other types of cases he was as favorable to police-power measures as almost any other judge on the bench. The facts of the separate cases apparently were of primary importance to Pitney. The case of McKenna has been previously commented upon. He was very favorable to the governmentalsists before 1910, but after that time he switched to the other side and became a most ardent champion of individual rights.

Of the twenty-nine judges whose records in these cases have been considered, only Peckham and Harlan seriously contradict the principle that northern-derived judges generally support police-power measures and that southern and western-derived judges generally oppose such measures; besides, there is some doubt as to whether Harlan should be classified as a Southerner. If the Kentucky jurist were to be classed as to his attitude during the Civil War, he would be placed in the northern category. Peckham's record is not to be explained by geographical influences.



## THE FEDERAL FARM BOARD AND THE AGRICULTURAL CREDIT SYSTEM\*

By V. P. LEE

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The one thing about the Federal Farm Board that is widely known and thoroughly understood is that it has \$500,000,000, and that sooner or later the farmers will get it. The popular notion is that the functions are restricted to lending this revolving fund. It is likely of course that the actual financing of the coöperative associations will be only a minor function of the board. Much more important than the actual financing is the influence wielded by the board through agreements preliminary to loans in improving the organization and management of the coöperatives.

In discussing the relation of the Federal Farm Board to the existing agricultural-credit system we shall likewise find that the importance of the credit operations of the board cannot be measured in terms of the amount of money advanced. If the total revolving fund should be advanced to coöperatives in one year the board would be financing only a small part of the total agricultural products sold in the country—probably 5 to 10 per cent. More important is the influence which the new agency will have upon the banking institutions now extending credit to farmers and farmers' organizations. What is to be the relation of the board to the Federal Farm Loan System and to the commercial banks? Will the credit policies of the board handicap or improve the service being rendered by the banks? What effect, if any, will the board's activities have upon the merchant-credit system, so prevalent in the South? Finally, is there a real need for the credit services offered by the board?

### KINDS OF LOANS MADE

To date the board has advanced more than \$100,000,000 in the form of so-called commodity loans, stabilization loans, and facility loans. A very large share of the loans are commodity loans made to coöperative associations to enable them to advance a larger percentage of the value of the products to members.

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These loans are designed to ease the financial situation of members and in turn to allow the associations ample time to carry out their program of orderly marketing. The terms for which such loans are extended will be similar to the terms of intermediate credit bank loans or, in some cases, the same as commercial bank loans. The essential difference lies in the amount extended in relation to the value of the product. Thus, in the case of commodity loans to cotton coöperatives the intermediate credit banks will lend only about 65 per cent of the value of the cotton, and the board supplements this with another 25 per cent. In some cases (wheat and cotton) the board has agreed to advance loans up to a specific value, such as 16 cents for cotton.

Stabilization financing is probably second in importance at present. The board assists in organizing stabilization corporations for price maintenance. Money is advanced to the corporation to buy and store the commodity until price conditions are better. Whereas, the commodity loan is advanced to permit coöperatives to adjust their operations to the seasonal market, the stabilization loan is designed to permit cooperatives to adjust their programs to the year to year marketing situation, or to maintain and stabilize the price of the commodity. The commodity loans of the board are made in addition to ordinary advances of intermediate credit and commercial banks for similar terms, while stabilization loans are a new type of loans made to foster price-control. Intermediate credit banks and commercial banks have always insisted that the borrower liquidate during the season, while the Farm Board stabilization loans are specially designed to allow the associations to extend their liquidation period into the next crop season, and beyond if necessary. To the banking fraternity this is a new and wholly undesirable type of credit. It fosters a new method of marketing in that it definitely plans and promotes carrying products of one year over to later years. Of course some manufactured commodities as well as raw farm products have always been carried over to the following year, but this program anticipates a definite program of adjustment of the supply of farm products to the market demand. Whereas manufacturers adjust their production rather readily to demand, the theory here is that on account of the uncontrollable weather and pest conditions farmers must have a system of making such adjustments through the control of the year-to-year marketing process. Bankers of all types have

always considered that a year is a year and that producers should liquidate each year's products during the year. The extra financing involved in carrying a surplus has been discouraged. The Federal Farm Board will actually encourage such operations under depressed price conditions.

The third type of loans made by the board are called facility loans. These are made to coöperative associations for the construction or acquisition of physical facilities, such as warehouses, elevators, and packing plants. Loans are made for a maximum period of 20 years and are repaid on the amortization plan. Although not many facility loans have been made to date, it is probable that many loans of this type will be made in the future. Such loans will help many coöperatives to solve the difficult problem of raising permanent capital. The inability to raise capital, even in capital-stock associations, has handicapped many coöperatives. Through facility loans the associations will have an opportunity to accumulate their capital over a period of years. Presumably the facility loan will put sound coöperatives on an equal basis with corporations which can readily raise capital through the public sale of stocks and bonds. This is a type of agricultural credit which has not been provided for in any of the farm credit legislation up to 1929.

#### RELATION TO INTERMEDIATE CREDIT SYSTEM

It is in connection with commodity and stabilization loans that the Federal Farm Board comes in closest contact with the established farm credit system. In making these loans the board has coöperated very closely with the Federal intermediate credit banks. It will be recalled that the Agricultural Credits Act of 1923, which provided for the twelve intermediate credit banks with various other types of agricultural banks, was passed primarily for the benefit of livestock producers and coöperative marketing associations which needed loans for longer terms and in larger amounts than were desirable for commercial banks. This legislation was the answer to the cry for farm relief which had been heard in Congress since the crisis came in 1920. The farmer's chief hope lay in the development of coöperative marketing and this act was an attempt to furnish the necessary finances. But the cry for farm relief continued, and finally the Agricultural Marketing Act with a much more far-reaching purpose was passed in 1929. The intermediate credit banks have

been plodding along since 1923 with a comparatively small volume of business. In general their lending policies have been very conservative, and they have not been very aggressive. In most cases they have been willing to coöperate with farmers' organizations and financial institutions which sought rediscounts, but they have not followed an aggressive policy of developing subsidiary institutions through which to finance farmers. In fact there are cases in which they have discouraged the development of agricultural-credit corporations. While it is probable that the intermediate banks have had good reasons for their passive policies, they have failed to satisfy the demands of the agricultural interests over the country. The Federal Farm Board on the other hand was created with the authority to loosen up on the purse strings even if it involves a loss to the Federal Treasury. It provides for farm loans with a vengeance.

With a second government-established body to advance credit, in many cases for the same general purposes, it will not be strange if the operations of the board will greatly influence the policies of the Federal Intermediate Credit System. The indications now are that the board's operations will influence the system in three distinct ways: (1) it is likely to extend the service of the intermediate credit banks more fully to fruits and vegetables and other commodities that have heretofore not been considered "staple" products under the provisions of the Act of 1923; (2) it will develop a more aggressive loan policy among the intermediate credit banks; and (3) it will actively assist in the establishment of subsidiary financing institutions to be served by the intermediate credit banks.

While no very definite information is available on a changed interpretation of the Act of 1923 regarding the types of commodities on which the intermediate banks may make loans, various statements of members of the board indicate a changed attitude on the part of the banks. They seem to be taking a more liberal attitude toward extending loans on semi-perishable products.

It seems clear that the Federal Farm Board has been instrumental in developing a more aggressive loan policy among the intermediate credit banks. In connection with practically all of the commodity loans made by the board, the intermediate banks have first made an advance. In many cases it seems that the intermediate credit banks have extended loans to their limit at



the instigation of the board, which in turn extended supplemental loans to its limit. In cases such as that of the Sun-Maid Raisin Growers of California the board has first lined up the intermediate credit bank in a mutual agreement to supply the financial needs of the association. In this particular case an agreement was arranged between the board, the Berkeley Intermediate Credit Bank, and four commercial banks of Los Angeles and San Francisco. The board agreed to supply half of a maximum line of credit of \$9,000,000 provided the intermediate and commercial banks would supply the remainder. The point here is that the board seems to have taken the initiative. It went to the trouble of making a thorough investigation of the whole raisin industry and its credit needs, and made arrangements to supply the credit.

One of the greatest handicaps of the intermediate credit banks has been the lack of subsidiary or local financing agencies. The Act of 1923 provided that state and national banks might rediscount farmers' notes with the intermediate banks. For the obvious reason that the banks were limited in the rates they could charge borrowers they have used the privilege very little. But this situation seems to have been anticipated and a new type of agricultural bank known as agricultural-credit corporations was created. They were to have a minimum capital of \$10,000 and to rediscount farmers' notes with the intermediate credit banks. The result has been that commercial banks used the intermediate banks very little and agricultural-credit corporations have not developed as many expected they would. The new banks have been organized largely among range-cattle producers and the cotton coöperatives. A few old cattle loan companies reorganized to meet the requirements of the intermediate banks and several new companies have been organized. The latter are very small in most cases and they are located largely out in the range towns, rather than in the big livestock markets. Most of the state cotton coöperatives have organized subsidiary finance corporations to secure funds from the intermediate banks for their members, chiefly for crop-production purposes.

The total credit extensions of the intermediate banks in the form of rediscounts have been comparatively insignificant (slightly above \$50,000,000, in 1927 and 1928), due largely to the difficulty of establishing local financing units. Independent agricultural-credit corporations have in many cases actually been dis-



couraged by the intermediate banks because of the lack of volume of business and the lack of trained bankers to manage them.

It is anticipated that the Federal Farm Board will assist in facilitating the organization of agricultural-credit corporations. Efforts to this end may be expected particularly in those cases in which such financing agencies will facilitate the operation of coöperative marketing associations. According to press reports, the board has proposed to assist in the organization of an agricultural-credit corporation among the range-cattle producers in West Texas. Presumably the corporation is to be operated over a large territory and it is designed specially to serve members of the new Texas Cattle Raisers' Coöperative Marketing Association. The board proposes to subscribe \$800,000 of stock for the finance corporation provided \$200,000 is raised by the cattlemen. This capital would permit maximum rediscounts of \$10,000,000 of cattle paper with the Houston Intermediate Credit Bank.

Just how extensively the board will do such financing is of course uncertain, but it seems likely that some of the cotton coöperatives may ask for similar assistance in expanding their subsidiary finance corporations. In fact it has been intimated that some of the cotton coöperatives may ask the board to assist in establishing a big finance corporation to operate over the whole group of southern states through state subsidiaries. Such an organization would of course hope to do cotton production financing on a very large and extensive scale.

#### CONCLUSIONS

Although the Federal Farm Board has been in existence less than a year, a few tentative conclusions may be reached regarding its place in the agricultural-credit system of the country. First, probably the most important change in the credit system due to its operations will be a change in the policy of the Federal Farm Board and the intermediate credit banks. The more or less passive attitude of the intermediate credit banks is likely to be changed through pressure of the Farm Board which in turn is constantly being pressed by the public to do something for farmers' marketing organizations. That is, the pressure on the board to develop coöperative marketing will result in the fullest use of existing credit machinery.

Second, it seems likely that the activities of the Farm Board may lead to a development of the new type of farmers' local banks provided for by the Act of 1923. Also, with the definite policy of organizing nation-wide coöperatives, the board is likely to encourage the organization of national agricultural-credit corporations and rediscount corporations provided for in the Agricultural Credits Act of 1923. At present only one national agricultural-credit corporation is operating and no rediscount corporations have been organized. According to the act, these banks are designed to cover much larger territories than are the agricultural-credit corporations, and they are under the supervision of the Comptroller of the Currency, as are the ordinary national banks.

Third, in general the Farm Board's credit activities over a period of years should tend to reduce the interest rate on farm production and marketing loans. All loans extended by the board itself bear 4 per cent or less. This should have a direct influence on the rates charged by commercial banks on loans to coöperatives. Indirectly, the influence of the board in expanding the operations of the intermediate credit banks should familiarize more farmers with the possibility and desirability of reducing the cost of loans. This influence should be particularly felt in the cattle-range sections and in the crop sections where 10 per cent or more is still a common rate. This influence should result in a hastening of the process of discarding the old style store credit system practiced so long in the South.

Finally, something must be added regarding the conditions under which the board itself makes loans. It has been recognized from the start that the board is taking hazardous risks with the public funds placed at its disposal. The Federal intermediate credit banks, for example, have done well to prevent heavy losses by lending only 65 per cent of the value of cotton. Now the board comes along and raises the ante to 90 per cent, even to 100 per cent. Also, the stabilization loans are hazardous by their very nature. Here the board supplies funds to buy up large quantities of cotton, wheat, and other products, and takes a wide-open chance of an advance in prices at least sufficient to pay carrying charges. All this in the face of the world's greatest uncertainties, i. e., what the farmers, insect pests, and the weather will do.

Of course no banker would approve such loans as being safe and sure, but the board is not primarily in the credit business. It is performing a great experiment in agricultural economics and credit extension is incidental. This fact must be taken into consideration before reaching conclusions on the credit function of the board. We are interested here primarily in the long-time effect the operations of the board will have on our whole system of farm credit. In my opinion, the board in the long run will be instrumental in teaching farmers the advantages of cheap credit and it will make the present agricultural-credit system more effective in serving the agricultural industry.

## THE POLICE JURY OF LOUISIANA\*

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### I

Local political institutions in Louisiana have been marked by the use of distinctive nomenclature rather than by fundamental differences in features and characteristics. The parish corresponds to the county in other states; the police jury corresponds to the county board, with its varying composition, found elsewhere in the South. A consideration of the police jury, consequently, represents a study of this local legislative and administrative agency in the parish.

The origins and development of local subdivisions and institutions in Louisiana are not without their interest. Following the purchase of the territorial area known as Louisiana by the United States from France in 1803, the section of the territory south of the thirty-third parallel was organized into what is known as the Territory of Orleans. One of the first official acts of the Legislative Council was that of April 10, 1805,<sup>1</sup> providing for "dividing the Territory of Orleans into counties, and establishing courts of inferior jurisdictions therein." Some twelve counties, the boundaries of which corresponded at times to the limits of the earlier Spanish ecclesiastical districts called the parishes, but which more often contained several parishes or simply groups of settlements, were thus established. These districts were abolished for local governmental purposes by an act of March 31, 1807,<sup>2</sup> redividing the territory into nineteen parishes. The name was derived from the appellation of its ecclesiastical predecessor because of the similarity in many instances of the boundaries of the two areas. Additional legislation and constitutional provisions<sup>3</sup> testify that the county was still a recog-

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<sup>1</sup>L. Moreau Lislet, *A General Digest of the Acts of the Legislature of Louisiana* (2 vols., New Orleans, 1828), v. 1, pp. 287 ff.

<sup>2</sup>*Acts Passed at the Second Session of the First Legislature of the Territory of Orleans, 1807*, p. 1.

<sup>3</sup>*Constitution of Louisiana of 1812*, Art. 2, §§8 and 10; Art. IV, §3; Art. VI, §; Schedule, §8 in Ben P. Poore, *Federal and State Constitutions, etc.* (2 vols., Washington, 1878), Vol. 1, pp. 700 ff.

nized area for political purposes in the state. It represented in such cases, however, purely an area for electoral and taxing purposes and not one for purposes of local administration.<sup>4</sup>

The police jury cannot be traced back to the Spanish or French régimes because its origins are unquestionably American. The first act dealing with what was probably destined to be the forerunner of the present day police jury was one approved on June 7, 1806,<sup>5</sup> and affecting the counties of Attakapas and Opelousas. This enactment provided that "the judge of the County of Opelousas, and the justices of the peace, jointly with a jury of twelve inhabitants of said county, shall determine the means the most convenient for that purpose, and they shall fix the toll to be paid according to the size of the boats and barges, etc." on the "passage of Plaquemines." Similar provisions were included in this statute regarding agencies in the parish of Attakapas to see to the improvement of "passage of the La Fourche." A general act of April 6, 1807,<sup>6</sup> specified that "the parish judges together with the justices of the peace and a jury of twelve inhabitants, shall meet once in the year—or oftener if necessary at the request of the parish judge." The designated group was empowered to pass necessary regulations relative to roads and bridges, the running of cattle at large and the necessity of and type of fences, and "to order and provide for the execution of whatever concerns the interior and local police and administration of their parish; and likewise to undertake all improvements which they may deem useful to the community, whether they consist of new roads, bridges, or navigation; and the expenses attending such works, shall be shared by all the inhabitants and distributed among them in the manner which shall seem the most just and the most convenient to their interests." By an act in 1811<sup>7</sup> "the parish meeting or police jury, which was before composed of the parish judge, the justices of the peace and a jury of inhabitants appointed by the judge, shall be composed

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<sup>4</sup>The Act of March 31, 1807, it is to be noted, provided for the continuation "of the division of the territory into counties—for the purpose of making the election of the representatives of the territory and levying the territorial taxes." *Op. cit.*, p. 50. See William O. Scroggs, "Parish Government in Louisiana" in *Annals*, Vol. 47, May, 1913, pp. 39-40.

<sup>5</sup>*Acts Passed at the First Session of the First Legislature of the Territory of Orleans*, 1806, p. 94.

<sup>6</sup>*Ibid.*, Sec. Sess., 1807, p. 132.

<sup>7</sup>Lislet, *op. cit.*, Vol. 1, pp. 653-655.



for the future of a jury of twelve inhabitants presided over by the parish judge, or in his absence by one of the members of the jury, elected by ballot" at a "parish meeting." The members of the "parish jury" were to consist of "twelve respectable inhabitants and owners of freehold" selected for a two-year term by the assembled voters at a place designated by the judge. The additional power of establishing in each parish "a gendarmerie whose duty it shall be—to go after runaway slaves and to maintain good order among the slaves" was accorded.

Thus by 1811, a year before Louisiana became a state in the Union, the political bodies under discussion consisted in each parish of appointive judges and justices of the peace and an elective "jury" of inhabitants. In 1813 the jurors were made elective from wards.<sup>8</sup> The number and boundaries of wards were to be determined upon by the parish judges and justices of the peace, who were to be guided in their action by the "necessities of the local situation." Additional powers bestowed in 1813 included those of levying certain license taxes, the establishment of ferries, the levying of new taxes and the appointment of a parish treasurer and parish constables. It is also well to notice that by 1813 the term "police jury" had come into such accepted usage that the other terms used synonymously formerly were practically excluded.<sup>9</sup>

Subsequent developments brought further changes in the organization and functions of the police jury. After 1816, in the absence of the parish judge, the body was to be presided over by "one of the members of the police jury, chosen by them-

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<sup>8</sup>*Ibid.*, Vol. 2, pp. 239 ff.

<sup>9</sup>The facts presented, it is suggested, form the basis for the explanation of the origin of the term. The original jury of twelve provided for in addition to the peculiar nature of the most important functions of these local political agencies furnish, it is thought, the proper explication of the inception of the term which is used today. The "police" functions of the "jury" are well illustrated in an early official compilation of police jury regulations. The chapter headings include only ones on "Des chemins, Ports et Levées," "Des Patrouilles," "Des Animaux et des Barrières," "De la Geole," "Des Licenses," "Du Ferri," and "De l'Administration des Fonds de la Paroisse." *Reglements Du Juri De Police De La Paroisse D'Ouest Baton Rouge*, 1821. It is also significant that the term "board of police" was used synonymously with "police jury" at infrequent times down to the Civil War. See *Acts of Louisiana*, 1847, p. 115; *Record Book of Police Jury of East Baton Rouge*, 1847-1866, p. 333.

selves."<sup>10</sup> Justices of the peace were no longer members after 1824.<sup>11</sup> In 1827 age, property, and residence qualifications were required of prospective police jurors in certain parishes.<sup>12</sup> Finally, in 1847, the police juries selected a president from their membership, and "the duties heretofore imposed on the parish judges by the laws of this state, in connection with police juries were to be performed by the president of said police juries."<sup>13</sup> Along with this change in organization went naturally a gradual accretion of powers. These need not be mentioned since, in most instances, they form the basis of present-day functions.

## II

Each of the sixty-four parishes in the state, with the exception of the Parish of Orleans,<sup>14</sup> has a police jury. The police jury has been judicially defined as a "political corporation" and may, of course, "sue and be sued."<sup>15</sup> It is a body possessing limited powers; in fact, it is "a body or jury for the exercise of a limited portion of governmental or police power, which under uniform jurisprudence exists to the extent only that it is delegated by positive legislation."<sup>16</sup>

Although two forms of government have been provided for parishes, the commission form<sup>17</sup> and the police-jury system, the latter only needs occupy our attention since the former has not as yet been adopted by any parish. The members are elected for four-year terms<sup>18</sup> from wards. These wards vary in num-

<sup>10</sup>Lislet, *op. cit.*, Vol. 2, p. 244.

<sup>11</sup>*Ibid.*, Vol. 2, p. 249.

<sup>12</sup>*Acts of Louisiana*, 1827, p. 8.

<sup>13</sup>*Ibid.*, 1847, p. 81.

<sup>14</sup>The Parish of Orleans is governed by the Commission-Council of the City of New Orleans. In the consideration of police juries, consequently, it will be assumed that the Parish of Orleans is omitted.

<sup>15</sup>*St. Helena Parish v. Flukes*, 1 Robinson, 389; *McGuire v. Bry*, 3 Robinson, 196. On the matter of parochial liability, in general, see citations in John J. Robira, *Compiled Laws of Louisiana Relating to Police Juries* (New Orleans, 1927), pp. 7 ff.

<sup>16</sup>*Union Sulphur Company v. Calcasieu*, 153 La., 857; *State v. Miller*, 41 La. Ann., 53.

<sup>17</sup>This plan provides, instead of the police jury, a commission consisting of a Commissioner of Public Affairs, a Commissioner of Finance, and a Commissioner of Public Improvement. They are elected at large for four-year terms and are subject to recall. *Acts of Louisiana*, 1914, p. 357.

<sup>18</sup>*Ibid.*, 1894, p. 201.

ber from five to ten and are created by the police jury.<sup>19</sup> Each ward is entitled to at least one police juror, and in parishes containing a population of less than 50,000 each ward is entitled to an additional representative if it contains 5,000 inhabitants, and one police juror for each additional 5,000 inhabitants or major fraction which it contains.<sup>20</sup> A member of a police jury may be recalled if his removal is favored by a majority of the voters participating in an election called by virtue of a petition containing the signatures of 25 per cent of the qualified voters of the ward.<sup>21</sup>

A police juror must possess the same qualifications as a member of the House of Representatives. He must be an elector, a citizen of the state for five years, a resident of the parish for two years preceding the election and a resident of the ward from which he is elected. He must, in addition, be able to read and write the English language and "own in his own right, or whose wife owns in her own right, property of an assessed value of at least two hundred and fifty dollars in the parish" which he is to represent.<sup>22</sup> This parish official receives, beside his traveling allowances, a compensation which is not to exceed \$5.00 per day of actual service for a period not to exceed thirty days annually.<sup>23</sup> He is prohibited from dealing in any parish paper, scrip, or warrants<sup>24</sup> and from acting upon any matter considered by the body if he has an interest in it of a personal sort.<sup>25</sup>

The president of the police jury is elected from among the members for a term of one year. A president pro tem is selected to act in his absence.<sup>26</sup> Among his duties are the approval of bonds of parish and state officials, the calling of meetings of the police jury when petitioned to do so<sup>27</sup> and presiding at meetings.

<sup>19</sup>Solomon Wolff, *Revised Laws of Louisiana* (New Orleans, 1897), §2726.

<sup>20</sup>*Acts of Louisiana*, 1908, p. 412. The size actually ranges from five in the Parish of St. Charles to sixteen in the Parish of East Baton Rouge. *Report of Secretary of State*, 1927, pp. 60-147. Five members are appointed by the governor to act until the organization of the parish when a new parish has been created. *Acts of Louisiana*, 1910, p. 43.

<sup>21</sup>*Constitution of Louisiana*, Art. IX., §9; *Acts of Louisiana*, 1921, p. 295.

<sup>22</sup>Wolff, *Rev. Stat.*, §2727 as amended by *Acts of Louisiana*, 1894, p. 129.

<sup>23</sup>*Ibid.*, 1920, p. 58.

<sup>24</sup>*Ibid.*, 1912, p. 335.

<sup>25</sup>*Ibid.*, 1912, p. 335.

<sup>26</sup>Wolff, *Rev. Stat.*, §§2735 ff.

<sup>27</sup>*Ibid.*, §2732.

He is likewise required to "sign all warrants and make all contracts with the advice and consent" of the police jury, to make an annual financial report to the state auditor and to perform certain miscellaneous functions.<sup>28</sup>

The powers of the police jury are varied. Since many of the functions legally possessed by the body have become obsolete, attention will be directed only to those of interest at the present time. Included are the functions of making such regulations as it may deem expedient for "its own government," the "proportion and direction, the making and repairing of roads, bridges, causeways, dykes, levees, and other highways," the "clearing of the banks of rivers and natural drains," the "roving of cattle" in the parishes, the determination of the fines against those violating the regulations and the establishment and regulation of "ferries and toll bridges."<sup>29</sup> The police juries are further empowered to sell or exchange with other political corporations of the state, property not needed for public purposes,<sup>30</sup> and to grant franchises to public-service corporations under certain conditions.<sup>31</sup> The support and burial of paupers are charged to the police jury.<sup>32</sup> The provision for public buildings,<sup>33</sup> and the general care of prisons and the inmates are part of the duties.<sup>34</sup> Public libraries may be established and operated in each of the parishes.<sup>35</sup> Fish and game preserves can be established.<sup>36</sup> Aid is extended to the farmers by appropriations of money for coop-

<sup>28</sup>*Acts of Louisiana*, 1890, p. 32.

<sup>29</sup>Wolff, *Rev. Stat.*, §2743 as amended by *Acts of Louisiana*, 1902, p. 391. See, Robira, *op. cit.*, pp. 16 ff.

<sup>30</sup>*Acts of Louisiana*, 1926, p. 427.

<sup>31</sup>*Ibid.*, 1924, p. 194.

<sup>32</sup>*Ibid.*, 1880, p. 42. For looking after paupers farms may be bought or leased. The Parish of East Baton Rouge has turned this work over to the Red Cross which is financially recompensed by the police jury for the performance of this task.

<sup>33</sup>*Ibid.*, 1910, p. 43.

<sup>34</sup>See Wolff, *Rev. Stat.*, §2834 and supplementary legislation. Particular mention should be made of the power recently granted to police juries to create prison districts. These may be established by a single parish or a number of parishes. The judges of state courts in the district are charged with "sentencing all persons convicted of misdemeanor violations to such prison districts to do work for the public on farms or other public works within such districts." *Acts of Louisiana*, 1926, p. 331; *Ibid.*, 1928, p. 247.

<sup>35</sup>*Ibid.*, 1926, p. 47.

<sup>36</sup>*Ibid.*, 1926, p. 454.



erative work and by the establishment of experimental farms.<sup>37</sup> Beneficiary scholarships may be granted to worthy students from the parishes.<sup>38</sup>

Various officers are appointed by the police jury. The parish treasurer is thus chosen.<sup>39</sup> A clerk (or secretary) of the police jury may also be selected, although the offices of clerk and treasurer may be combined.<sup>40</sup> A registrar of voters is appointed for each parish.<sup>41</sup> Road overseers are designated by this body.<sup>42</sup> Although the district attorney is *ex officio* parish attorney, special counsel may be retained at any time to represent the police jury in legal controversies.<sup>43</sup> There are various commissions and board which are likewise chosen. The five members of the parish board of health,<sup>44</sup> two of the three members of the parish board of equalization,<sup>45</sup> the three members of the commission to supervise fish and game preserves,<sup>46</sup> the five members of the board of control of the parish library,<sup>47</sup> the five commissioners for irrigation districts,<sup>48</sup> the five commissioners for artificial drainage and sub-drainage districts,<sup>49</sup> three of the five commissioners for gravity drainage and sub-drainage districts,<sup>50</sup> three

<sup>37</sup>*Ibid.*, 1912, p. 199; *Ibid.*, 1924, p. 519. The parish farm agents are actually selected by and controlled by the Extension Division of Louisiana State University.

<sup>38</sup>The last of four acts granting such a right was *Ibid.*, 1928, p. 141. There are at present ninety-nine such students in institutions of higher learning in the State. *Official Proceedings of the Police Jury Association of Louisiana*, 1928, p. 6.

<sup>39</sup>Wolff, *Rev. Stat.*, §2743.

<sup>40</sup>*Acts of Louisiana*, 1924, p. 190.

<sup>41</sup>*Constitution of Louisiana*, Art. VIII, §18.

<sup>42</sup>Wolff, *Rev. Stat.*, §2743.

<sup>43</sup>*Acts of Louisiana*, 1912, p. 147.

<sup>44</sup>*Constitution of Louisiana*, Art. VI, §11; *Acts of Louisiana*, 1921, p. 108; *Ibid.*, 1926, p. 530. There were only twelve full-time health units in the parishes of Louisiana before 1927. Following the overflow of the Mississippi in that year, however, they were established in twenty-four out of twenty-five of the flooded parishes. \$53,000.00 out of the total of \$220,000.00, or 24.05% of the amount expended in the work of these units, was contributed by the parishes. *Proceedings*, 1928, p. 5.

<sup>45</sup>*Ibid.*, 1920, p. 382.

<sup>46</sup>*Ibid.*, 1926, p. 454.

<sup>47</sup>*Ibid.*, 1926, p. 47.

<sup>48</sup>*Ibid.*, 1926, p. 492.

<sup>49</sup>*Ibid.*, 1921, p. 133.

<sup>50</sup>*Ibid.*, 1924, p. 488.



of the five commissioners for water works districts,<sup>51</sup> and the three members of the supervisory board of sewerage districts<sup>52</sup> are appointed by the police jury, subject to certain statutory requirements. In addition, the police jury may designate and select all other officers "necessary to carry into execution the parish regulations, and to remove them from office."<sup>53</sup>

The construction and maintenance of roads and bridges deserves a special word because of the attention directed to these matters as well as the expenditures made upon them.<sup>54</sup> In 1923 there was in the state approximately 40,000 miles of highway, of which 7,000 miles was designated as state highways. The parishes aided financially in the construction and maintenance of these state highways until 1928 when the legislature relieved the parishes of any future costs for these purposes, but it can be seen that the care for the major portion of the mileage of the roads in the state lies exclusively in the hands of the parishes. Legally the police jury may still force able-bodied individuals to furnish twelve days work each year upon the roads, but the practical methods by which roads are constructed and maintained are by the use of convict labor, by the voting of special taxes for the purpose, and by the creation of road, sub-road, and consolidated road and sub-road districts.<sup>55</sup> The latter method has come into very common use in recent years. Under this scheme the police juries create these special districts according to a specified procedure, and "a majority in number and amount" of the property-owning taxpayers in the districts may authorize the incurring of bonded indebtedness for the purpose mentioned.<sup>56</sup>

The power of taxation, which has been bestowed upon the police juries almost since their inception, is the most vital power

<sup>51</sup>*Ibid.*, 1926, p. 663.

<sup>52</sup>*Ibid.*, 1924, p. 428. As yet no parish water works districts or sewerage districts have been created.

<sup>53</sup>Wolff, *Rev. Stat.*, §2743. The salaries and fees of other officers, not selected by the police jury, are partially or fully paid by that body. These officers include, for example, the coroners, justices of the peace, constables, district attorneys, and parish farm agents.

<sup>54</sup>The Budget of 1927 for the Parish of East Baton Rouge contained, out of a total of \$358,753.94 proposed expenditures, items aggregating \$197,040.15 for road and bridge construction and maintenance and the retirement of and interest upon highway bonds. The parish is, of course, not a strictly typical one.

<sup>55</sup>See Robira, *op. cit.*, pp. 104-132.

<sup>56</sup>*Acts of Louisiana*, 1921, p. 268.

possessed by those bodies. The various taxes that may be levied are so numerous that only a bare enumeration of the most important can be attempted. Among these are the property tax not to exceed four mills, a variable occupation tax, a road construction tax not to exceed five mills, a public building or other public improvement tax not to exceed five mills, a special tax for school maintenance not to exceed eight mills and a special tax for school buildings and improvements not to exceed five mills. Others are the tax to pay the principal and interest upon local bond issues (which may not exceed in amount 10 per cent of the assessed valuation of taxable property), a special tax for the same purpose as the above-mentioned one, a property tax of three mills for schools, except where the parish school board asks for less, a special tax for school buildings and improvements not to exceed five mills and a special tax for parish fairs not to exceed one mill.<sup>57</sup> Among the other taxes which may be levied specific reference should be made to the "tax of one cent per gallon on all gasoline or other motor fuel sold, used or consumed" within the respective parishes.<sup>58</sup>

Subject to numerous limitations included in the constitution and in enacting legislation, parishes may "incur debt and issue negotiable bonds" for various purposes. The police jury may simply act as an agent to submit the proposed bond issue to be approved at an election by a "majority of the property-owning taxpayers in number and amount" or it may on its own authority, but under certain conditions, fund into bonds "the avails or residue of the tax authorized by the constitution."<sup>59</sup> Because of the detail of the provisions it is impossible to discuss the varying parts which police juries play in the incurring of bonded indebtedness.<sup>60</sup> There was some question, up to 1924, as to the legal

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<sup>57</sup>The constitutional bases for such taxes are to be found in *Constitution of Louisiana*, Art. X, §§8 and 10; Art. XII, §15; Art. XIV, §§11 and 14 as amended by *Acts of Louisiana*, 1926, Supp., p. 11, and *Acts of Louisiana*, 1928, Supp. 2, p. 2. I am indebted for this information to Mr. R. L. Carleton of Louisiana State University, who has prepared for Louisiana a tax chart to be published shortly by the New York Tax Commission.

<sup>58</sup>*Ibid.*, 1928, Spec. Sess., p. 31.

<sup>59</sup>*Constitution of Louisiana*, Art. XIV, §14 as amended. See above.

<sup>60</sup>But see *Idem.*; *Acts of Louisiana*, 1921, pp. 49, 79, and 119; *Ibid.*, 1926, p. 515; *Ibid.*, 1928, pp. 225, 239, and 346. It is interesting to note that two of these acts passed by the Legislature in 1928 authorize police juries to issue bonds for the purpose of "acquiring . . . airports."

authority of the police juries to borrow money in order to pay current expenses. Act 52 of 1924, however, specifically empowered police juries "in order to pay their current expenses for any year—to anticipate the revenues of such year and to borrow money and to pay such expenses and to issue negotiable certificates of indebtedness covering such loans."<sup>61</sup> Additional legislation has enlarged the power thus granted.<sup>62</sup>

It is well that an additional word be added regarding the power of the police jury to provide for special districts. Road and sub-road districts and consolidated road and sub-road districts have already been mentioned. As also indicated above<sup>63</sup> and subject to various limitations and conditions, the police juries are charged with the creation of artificial drainage and sub-drainage districts<sup>64</sup> the creation of gravity drainage and sub-drainage districts,<sup>65</sup> the creating of water works districts,<sup>66</sup> the creating of sewerage districts<sup>67</sup> and the creation of irrigation districts.<sup>68</sup> These districts, in the creation of which the police jury plays a variable part, form a veritable labyrinth of special areas in the parish, particularly when they are included along with the special districts created by other agencies, state, and municipal.

### III

The criticisms which have been made of the bodies in other states corresponding to the police juries will hold true as a rule in Louisiana. The proposals looking toward alterations of county governments, in as far as the representative bodies are concerned, might be seriously considered in this state. There is no need, however, to rehearse the accepted. Instead, a few suggestions possible of attainment to remedy conditions particularly existent in Louisiana might be made.

<sup>61</sup>*Ibid.*, 1924, p. 79.

<sup>62</sup>*Ibid.*, 1928, pp. 39 and 88 as amended by *Ibid.*, 1928, Spec. Sess., p. 36.

<sup>63</sup>See p. 61.

<sup>64</sup>*Constitution of Louisiana*, Art. XV, §§1 and 2; *Acts of Louisiana*, 1921, p. 133; *Ibid.*, 1922, p. 125; *Ibid.*, 1924, p. 467; *Ibid.*, 1926, p. 471; *Ibid.*, 1928, pp. 45, 227, 262, 270, 309, 322, and 485.

<sup>65</sup>*Ibid.*, 1924, p. 488; *Ibid.*, 1926, p. 536; *Ibid.*, 1928, pp. 145, 227, 270, and 309.

<sup>66</sup>*Ibid.*, 1926, p. 663.

<sup>67</sup>*Ibid.*, 1924, p. 428.

<sup>68</sup>*Ibid.*, 1926, p. 492.

1. There are some needed changes in the present structure and organization of the police jury. The body becomes unwieldy when it numbers over ten or twelve representatives. Election from wards does not in every instance secure the election of men whose vision extends as far as the parish. There is at present no method of eliminating deadlocks where there is an even number of police jurors. It is proposed, if the present system be continued, that the number of police jurors be reduced to five or seven and that they be made elective at large from the parish. A much more acceptable plan, but at present one rather far from attainment, would be the commission form<sup>69</sup> of government.

2. An altered method of designating certain employees selected by the police juries is desirable. The application of any merit system principles at the present time, however, can hardly be hoped for in the absence of any state laws or organized agitation for the institution of such principles in state government.

3. Numerous changes are desirable in the system of fiscal administration. The existing budget system is obsolete for governmental agencies spending in the aggregate approximately \$20,000,000<sup>70</sup> annually. The accounting methods, besides being usually unsatisfactory, evidence a conspicuous lack of uniformity among the parishes. More effective budget systems might be introduced, and more modern and uniform accounting systems could be instituted.

4. The bonded indebtedness of the parishes and of the special districts in the creation of which the police jury plays a part, is excessive,<sup>71</sup> and maturing bonds are neglected and go unpaid too often.<sup>72</sup> The interest rates paid upon loans for current pur-

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<sup>69</sup>See p. 58. This plan would not remedy the fundamental defects of parish government, viewed as a whole, but it would be a desirable innovation in so far as the police jury is concerned.

<sup>70</sup>See *Transmission*, Vol. 1, No. 2, p. 33.

<sup>71</sup>Statistics furnished by Mr. E. A. Conway, Supervisor of Public Accounts, show that the parishes of East Carrol and Calcasieu had outstanding bonded indebtedness on Jan. 1, 1928, of \$1,011,500.00 and \$4,283,750.00 respectively. Exclusive of the indebtedness of drainage districts, the amounts were \$287,000.00 and \$3,815,000.00 respectively. The assessed evaluation for both state and local purposes in the parish of East Carrol for 1927 was \$7,871,310.00 and for the parish of Calcasieu \$33,962,280.00. *Eleventh Annual Report of the Louisiana Tax Commission*, 1927, pp. 217, 225. The two parishes may be taken as characteristic areas.

<sup>72</sup>See *Proceedings*, 1928, p. 13.



poses seem unnecessarily high in many cases.<sup>73</sup> In the case of the bonded indebtedness of the parishes, the increase might be checked somewhat by greater deliberation on the part of the police juries which usually take the initiative regardless of the probable requirements for approval of issues at elections. The only effective method of dealing with this matter, it seems, would be to place in the hands of some state administrative department (preferably under the jurisdiction of the supervisor of public accounts) the power to pass upon the desirability as distinguished from the legality of a proposed bond issue.

5. Modifications in the methods of purchasing should be instituted in nearly all parishes. Particularly in view of the large amount of materials purchased for road construction and maintenance, some single agent should be selected as purchasing agent by the police jury.<sup>74</sup> At present, the laws regulating the letting of contracts should be more rigidly adhered to.<sup>75</sup>

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<sup>73</sup>Answers to a questionnaire prepared by Mr. L. U. Babin, President of the Police Jury Association, from fifty-one parishes replying show rates ranging from 3.05 and 3.10% in the parish of East Carroll, 4% in the parish of Lincoln, and 4.5% in the parish of Livingston, to 8%, the legal maximum, in such parishes as Caddo and Lafayette; in fact, the police juries in fifteen out of the fifty-one parishes pay 8%. The exceedingly low rates found in a few of the parishes is possibly explained by Act 205 of 1912. *Acts of Louisiana*, 1912, p. 415. This act requires the legal depository of a parish to lend to the parish "when the same has been legally authorized to borrow, an amount equal to the average deposits which it may have kept in such bank, at the same rate of interest as its deposits bear." The banks, in most cases, now refuse to bid on parish funds. The extremely high rates of interest up to 1924 might be partially explained on the ground that there was some question as to the legal right of police juries to borrow for current expenses. Mr. E. G. Davis, vice president of the Louisiana National Bank, points out that loans made to police juries up to that time were more or less based on "moral agreements." The legislation of 1924 and subsequent legislation, mentioned above, leave no plausible justification for the prevalent rates of today.

<sup>74</sup>Of the fifty-one parishes from which statistics are available, eight report a purchasing agent. The parish treasurer acts as agent in two parishes, the secretary-treasurer in two, the secretary in one. The Parish of Franklin simply reports a purchasing agent, and the Parish of Ouachita reports one who is paid an adequate salary of \$3,780.00 per year. It is not pretended that all of the principles underlying proper centralized purchasing in state governments or larger municipalities need apply in most cases. There are advantages to be derived from a centering of responsibility.

<sup>75</sup>Mr. W. M. McFarland, former Supervisor of Public Accounts, is authority for the statement that the supervisor's office had more trouble from the



6. The procedure of police juries might be improved. The excessive number of executive sessions seems unjustifiable and should be reduced.

7. There is an over-emphasis upon certain types of expenditures to the near-exclusion of other types. Outlays for highways and bridges render negligible in comparison the sums devoted to social welfare work, such as health, library, and poor relief administration.<sup>76</sup> It is thought that a more equitable balance might be made even at the expense of a few parish roads.

8. As a final suggestion, the creation of special districts should be approached with much more caution than has been shown in the past. There is in Louisiana a veritable mesh-work of special districts of one kind and another. The amount of bonded indebtedness<sup>77</sup> and the administrative and legal problems<sup>78</sup> which their creation gives rise to, should be sufficient warnings in themselves.

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failure of police juries to conform to the provisions of Act 73 of 1926, than from all other sources of trouble combined. See *Proceedings*, 1928, p. 13. This act, with the alteration made in 1928, requires advertisement for bids when more than \$500.00 is to be spent on materials and supplies and the letting of the contract to the "lowest responsible bidder." *Acts of Louisiana*, 1926, p. 89, as amended by *Ibid.*, 1928, p. 251.

<sup>76</sup>The budget of 1927 for the Parish of East Baton Rouge, for example, contained items aggregating \$135,312.36 for the maintenance and construction of roads and bridges (and interest on road bonds) as compared to items of approximately \$31,550.00 (including a \$12,000.00 item for jail maintenance which should not necessarily be so classified) for the items which have been dogmatically classed as social welfare items.

<sup>77</sup>This matter has already been referred to. In 1925 drainage boards alone in the state disbursed \$2,439,833.95. *Report of the Supervisor of Public Accounts*, 1926, p. 116. Drainage districts in the Parish of East Carroll, with a very low assessed evaluation, had on Jan. 1, 1928, an outstanding bonded indebtedness of \$724,500.00. The road districts in the Parish of East Baton Rouge had on Dec. 31, 1928, an outstanding bonded indebtedness of \$1,063,500.00. From *Schedules* on file in Supervisor of Public Account's office. The information to be secured on this subject is very unsatisfactory, since the *Schedules* from the various parishes are frequently incomplete, out of date, or entirely missing as yet. There are no sewerage or water works districts in the state outside of municipal areas. The police juries play no part in the creation of levee districts and school districts.

<sup>78</sup>There were no less than seven general legislative enactments in 1928 affecting artificial drainage and sub-drainage districts and no less than four affecting gravity drainage and sub-drainage districts.

## PRESENT BUILDING AND LOAN CONDITIONS IN TEXAS\*

By HORACE F. CLARK,  
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The casual observer is led to believe that building and loan associations in the State of Texas have been suffering a serious depression during the years 1929 and 1930, but careful analysis shows that this is not the case. Five or six of the 162 associations in the state are in a difficult condition or are actually impaired. New investment money for the associations practically disappeared in the latter half of 1929, but the great majority of the associations are earning good profits.

### MUTUAL ASSOCIATIONS

Practically all building and loan associations in the State of Texas were organized upon the so-called mutual plan. All shares issued by such companies were withdrawable. There was no permanent supporting capital invested by the management. It was expected that fees and other charges would be sufficient to carry the operating costs of the business. In the past, Texas people have failed to understand this particular type of long-term investment, first they have considered themselves as depositors instead of owners and, second, all too frequently the building and loan borrower has had an improper idea of his obligation and of his rights under his loan contract. There are two sides to this problem as to any other, and public confidence hinges upon both. The savings are accumulated in small regular monthly payments and in lump sum multiples of \$100. Most of the loans are made upon Texas homes, and are repayable in monthly installments. Upon the management of the association rests the responsibility to see that the public understands what is being offered, and from its lack of foresight has grown whatever dissatisfaction the public now feels toward the business as a whole.

### MANAGEMENT

It appears that a substantial number of men entered the building and loan business in Texas without previous experience in

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the business. Many of them entered at a time when general business conditions were good and the business cycle was on the up-swing. Some of these men were led to believe that such good conditions would always continue in building and loan, and they in turn led their members into the belief that these long-term investment funds were repayable on demand, making terms at least as favorable as those offered by a commercial banking institution.

#### DEFALCATION OF MANAGERS

The record of trustworthiness of building and loan officials in all parts of the United States has been higher than for other financial institutions for practically the entire history of the business. With the increase in speculation which took place in 1928-29, all financial institutions found their officers being tempted more than formerly, and numerous misappropriations of funds occurred. Texas building and loan associations were among those suffering from this cause, and four officials have been detected in such defalcations during recent months. Substantial recoveries have been made in some of these cases, either through fidelity bonds or by attaching property of the defaulting official, but whenever such losses occur in a mutual institution, they are very likely to result in impairment of capital. The contingent loss reserve is seldom large enough to absorb such losses, and in most cases they must be charged against the share credits of members.

#### SHAREHOLDERS ARE NOT DEPOSITORS

The investors in building and loan associations in Texas are shareholders in the company, whether they hold installment shares, prepaid shares, or full-paid shares. They are, therefore, part owners in the business. The large returns which have been paid in dividends have been possible very largely because expenses of operation have been obtained from fees and other charges assessed against investors and borrowers. Whatever interest has been collected upon loans has, therefore, been available for dividend payments, since the Texas law requires only a small percentage of the profits to be set aside as a contingent loss reserve. No attempt was made to provide a "spread" between interest and dividend rates as the normal source of profit, except in one association, until within the last two years.

#### REPURCHASE OF SHARES

So long as business conditions were good, the associations made it a practice to purchase back the shares of their members, thus permitting withdrawal of invested funds, substantially on demand. Actually, this practice was made possible by using the new investment funds of other members for the purpose of meeting such withdrawals. When business conditions reduced the savings of the general public, the impossibility of repayment upon demand, out of current receipts, was forced sharply upon the attention of investors and association officials alike. When a substantial number of investors requested their money at one time, it placed too great a burden upon normal income from interest and principal repayments upon loans.

#### CHARACTER OF LOANS

Because of the fact that the management had no permanent investment in the business, it frequently happened that the rapidly-accumulating funds of the associations were loaned without proper scrutiny of the security offered, with a consequent tendency to lend too large a percentage upon many pieces of property.

#### SLUMP IN REAL-ESTATE VALUES

When the normal slump in real-estate values occurred, especially in 1928, the margin over and above the average loan was reduced sharply. In certain cases, borrowers refused to carry out their obligations, preferring to give up their properties rather than to continue payments on a total purchase price greater than the present value of the property. This, naturally, resulted in a substantial number of foreclosures and the acquirement of real estate by many of the associations.

#### PERCENTAGE OF REAL ESTATE OWNED

A building and loan association is in business for the purpose of making loans upon real estate and not for the holding or sale of property. When real estate, acquired through foreclosure, is not rented or bringing in an income, the earning capacity of the association is reduced thereby. The public has been led to believe that the total amount of real estate shown on some balance sheets within the past year is an indication that the particular

associations are in an unsound condition. This is not necessarily the case. It is the *percentage* which the real estate, acquired through foreclosure, bears to the total assets of the business which is the significant figure—not the total. When the percentage of real estate owned has increased to a point where the earning capacity of the association is impaired, then the matter becomes important. In most of the Texas associations, while the percentage appears to be larger than normal, it does not appear that this amount has interfered with the actual earning capacity of the business. Much of the real estate shown on the books of the Texas building and loan associations, is rented at rates which just about cover the interest upon the loans. Some of the real estate acquired is being sold at a profit; and the average sale, taking both losses and gains into consideration, appears to be equal to the foreclosed loan and other charges against the property.

#### FAILURES NOT WIDE-SPREAD

Five or six of the Texas associations have some impairment of capital, due (1) to the shrinkage of real-estate values, (2) to improper management, and (3) to actual misappropriation of funds on the part of some officials. The misappropriation of funds appears to be the more significant of these evils. In at least two of the associations referred to there will be some loss to the individual investor, these two associations already having voted to reduce their capital by a small fraction of the total investment to cover such losses.\* Liquidation of a building and loan association does not necessarily mean loss. Many building and loan associations have voluntarily liquidated, in the past, when their functions were completed and there was no longer a need for the organization. Over a period of 99 years, only 190 local building and loan associations are reported to have failed in the United States.

#### DIFFICULTIES OF ONE ASSOCIATION NOT AN INDEX

These five or six Texas associations which are having some trouble are not an indication that the business is in a failing condition. The trouble is not with the business as a whole, but merely with a few individual associations which have suffered primarily because of bad management.

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\*In one, the loss is reported as 9%; in the other, 14½%.



### WITHDRAWAL DEMANDS

When the public notices that a financial institution is being conducted on improper lines, it immediately seeks to recover or withdraw its funds. This condition developed against building and loan in certain parts of Texas during the year 1929 in unprecedented volume. It was merely a reflection of national conditions at the time. Members asked for their money. New investment funds had sharply declined, and it was not possible for the associations to hasten the normal collection of funds invested on long-term mortgages. Abnormal withdrawal demands could not be met. It should be noted that the normal turnover of funds in a building and loan association is 20 per cent of total resources per annum. This is the amount of normal receipts from interest and repayments on loans. This means that not more than one-fifth of all shareholders could be paid off in any one year from this source alone. The fact that withdrawal demands could not be satisfied promptly does not indicate a failing condition of the associations during the year 1929-30, but merely that the long-term investments were naturally slow in being repaid.

### NEW SOURCE OF OPERATING EXPENSE

A membership fee (sometimes handled as a withdrawal or cancellation fee) charged against all members, savers and borrowers alike, was formerly the custom in Texas. It is now being supplanted by a more equitable and more dependable source of operating expense. Most Texas associations were established under some form of management contract, whereby an individual or a group of individuals undertook to pay all costs of operation. They were reimbursed for their outlay by the fees collected from members. These management contracts frequently yielded handsome profits to individuals with very little initial investment by the manager.

When investment by the public declined, revenue from this source practically disappeared, and managers were compelled to adopt a policy which had been urged upon them for years—that of paying operating costs from the “spread” between interest and dividend rates and from loan fees and other legitimate charges.

#### INTRODUCTION OF PERMANENT STOCK

As a further remedy for this situation, the Texas law now permits the introduction of permanent supporting capital stock; which funds are non-withdrawable until all the liabilities of the association have been met. This stock assumes the risk of loss from operation, and in return for this risk is entitled to all residual profits. It is possible for the former mutual associations to convert to the capital-stock plan, thus strengthening the financial structure and securing the professional service of owners of this capital, whose profits will depend upon their skill in management. The introduction of permanent capital, it is believed, will tend to restore public confidence. That was the actual experience of the introduction of similar permanent capital in the State of Kansas in 1906 and in the State of California in 1908. In both of those states the large growth of building and loan associations, since that time, has come in the associations using this permanent supporting capital.

#### THE PUBLIC ATTITUDE

A substantial portion of the difficulty through which Texas building and loan associations have recently passed appears to be the failure of the public to understand the true nature of the business. The shareholders have considered themselves to be "depositors" rather than investors and owners.

#### INTRODUCTION OF MODERN METHODS

Modern methods are possible in building and loan as in other financial institutions, and such modern methods will improve the safety of the public's investments. Officials of building and loan associations can introduce modern methods of operation, both as to loans and savings. Consolidation, whereby several small organizations can be brought together under one operating management, can be carried out safely and economically under the new Texas law, in building and loan as in other financial institutions. A reserve system, whereby many of the associations can be tied together for the interchange of funds, is likewise under consideration and, when properly developed, should be a valuable assistance in strengthening the business.

## DISCUSSION

By E. K. MCGINNIS

*The University of Texas*

There is so much variance in the set-up, policies, and practices of Texas building and loan associations that the criticism of some should not be applied to all.

There is a substantial number of small, conservative, strictly mutual, local building and loan associations which were organized in response to a definite community need. These are under the active management of experienced men who are acquainted with local values and who know personally both borrowers and investors. They work for a nominal salary, just enough to furnish a back log of income in an affiliated vocation of realtor, insurance broker, or lawyer. Policies are determined by an active president who is often the veteran banker or capitalist of the community, a man having more than one decade of experience with cycles of business expansion. A genuinely active directorate checks appraisal judgment and credit risks. The president usually serves without pay as a matter of community service and to protect a substantial personal investment in the association on the same basis as all other installment investors. Most of the associations in this group cause no worry at present for either the State Banking Department, the investors, the borrowers, or the management. Recent conditions have merely presented an opportunity to augment the portfolio with some very good loans made in a favorable market. Where crop failures, unemployment, or the rare Wall-Street loss of an investor caused more than the usual withdrawals, this merely resulted in a healthy check in the rate of expansion, which prevented the assets of the association from growing beyond the needs of the local community. Most of the associations in this group will not need or desire permanent stock in order to retain confidence, but they do have their problems. Progress is being made in the factory production of homes and their chain marketing. The Sears Roebuck home-financing plan offers a 75 per cent loan at 6 per cent net with a 15-year maturity and a total carrying cost of \$8.43 a month per thousand dollars. Eventually these terms will probably be met by Texas lumber chains. Within five or ten years, possibly much sooner, prevailing interest rates on home loans in Texas may be lower than at present. In some sections of the state lower financing and production costs may be reflected in somewhat lower rents

and lower values of existing homes which now secure outstanding loans. If these loan companies survive in a rapidly-changing world, they must hew to the line of rigid honesty and sound principles and let the interest rates fall where they may.

In a second group there is one very large and fairly-seasoned guaranty or permanent stock company. At present the protected investors and borrowers have little cause for worry—the burden is upon the management because most of the profits for the last ten years are staked against their judgment and diligence, before other investors can lose. There are a few small, new companies organized on the same plan.

In a third group is a considerable number of large associations, mostly in cities of 40,000 and over, organized in response to a definite need in the community. These are all mutual companies but they were organized primarily for the legitimate service wages of various management elements. The necessary and legitimate appraisal fees of a large active association total \$5,000 a year and up; the necessary legal services where titles are examined by lawyers, \$10,000 a year and up; total management salaries, \$20,000 a year and up. There is nothing improper in the motive of management profit but it presents different problems from those presented by the small mutual company organized partly from philanthropic motives and partly to earn safely a high return upon personal investment funds of the manager and his associates. Probably the chief result of this difference in motive is that most of the associations in this group may find it advisable to reorganize under the permanent stock plan in order to give the stockholders adequate protection against the normal influence of human greed. All of these associations have made mistakes; some associations have made more than others. Most of the managers have recognized and frankly admitted their mistakes and, in most cases, have corrected them. The great problem at present is to educate the investors to be satisfied with a still lower rate of dividend, to retain that degree of safety which building and loan securities must have. If the managers, borrowers, and investors coöperate intelligently, all of the associations in this group should continue to be of service and a credit to their respective communities.

A fourth group has assisted in over-financing mushroom construction. Inexperience has been the cause of some honest mistakes, but the principal difficulty is that many of these associations, under the cloak and credit of the name of building and



loan association, have really been conducting a mortgage-loan business, seasoning and marketing notes. In some cases they have even been operating a real estate development business, dealing in highly speculative equities.

A leading cause of this situation is the so-called manager's contract. Men of the promoter type have made agreements covering a long period, to develop and manage the association for all of the profits above the dividend rate that may be agreed upon from time to time by the directors. There is considerable legal opinion that these managers' agreements are not contracts, that they are not legally binding on either party. There is the opinion that some of these contracts were made with dummy directors or that they are *ultra vires* as being for a longer term than necessary. Some may be void for lack of consideration, others void because the consideration is left to mutual agreement. In one case the manager sold his contract to the association for \$120,000, in another the manager released his contract for a salary contract of about \$20,000 a year for ten years. The present law requires that such new managers' agreements shall be subject to the approval of the Banking Commissioner. It is a mistake to assume that all associations operating under a manager agreement are unsound. A manager starting a new company, risking a substantial amount of personal funds and personally bearing the management expense in the early years may be excused for taking such security as he can that he will not be deprived of the fruits of his efforts. It is more important to analyze men and their records. Has the manager been building for a happy future in Los Angeles, Palm Beach, or Mexico, or has he been building for a future in and with his association?

Partisan friends stress the statement that building and loan investors are owners not investors. Most building and loan managers are now forcibly realizing the fact that the investor is an owner with a *contract right to withdraw*, after due notice, payable out of a specific fund. The withdrawal feature is a generic characteristic of a building and loan. Delete the withdrawal feature and you have left a mortgage loan company, not a building and loan association. In varying form, the withdrawal feature is found in the charter or by-laws of every association, and it is fully protected by the most recent statute. Legally, an association may, with impunity, be in default for one year in meeting withdrawal requests. After default for a year, all of the income



must be applied to withdrawal requests, payable in the order of filing or *pro rata*, upon the direction of either the board of directors or of the Banking Commissioner. The practical result is that no association can progress if at all in default in paying withdrawals, and any association more than a year in default is in virtual liquidation.

A group of operators recently attempted to secure an amendment giving the Banking Commissioner power to declare a moratorium on the filing of withdrawal requests. Such a provision would make it possible to freeze capital in the hands of incompetent management. A factor of the strength of a building and loan association is the sensitive control of the stockholder through the withdrawal provision. Mr. George F. Baker, the venerable dean of Wall Street, stated before the Pujo Congressional Committee that even with unscrupulous management the large financial institutions could not ruin this country because *bad hands* can not hold the deposits and securities. It is the salvation of our present building and loan situation that bad hands cannot hold the securities. The past year has shown that even good hands find great difficulty in holding the securities, where there is no way to tell good hands from bad.

It has been suggested that in the analysis of a building and loan report, too much significance has been attached to the item of foreclosed property. An experienced lumber dealer recently said: "We have all been unwilling parties to a gross deception. There has been serious over-financing. There are homes occupied by people who appear to have bought them, where there is no intention on either side that they shall be paid for." Real estate foreclosed represents the mistakes; it is the only indication the investor has of how much over-financing his association has done. To the item of foreclosed property there should be added foreclosed property sold, and property should be held in this account until notes are paid down to a 67 per cent loan. A building and loan vice-president told his stockholders that their present average terms of sale were \$150 cash on a \$3,000 home and notes for the balance, 5 per cent cash and 95 per cent notes. When the Banking Commissioner orders an appraisal to determine solvency he orders the appraisal of foreclosed property, foreclosed property sold, and property on which payments are three months in default. In one case where the Banking Commissioner ordered about \$1,600,000 of such property to be appraised a reserve of about

\$160,000, or 10 per cent, was ordered to be set up to cover depreciated value, a depreciation which, in the opinion of the appraisers, had already occurred.

Our state supervision has been vastly improved in the last few years. Though there is still opportunity for improvement, our law is among the best in the country. The officers in charge of supervision have been courageous and firm, yet sympathetic and patient. The responsibility now lies with the investor. The stockholder has a share of the burden of responsibility. It is his duty to demand adequate reports and to support only those associations that are competent to manage his money. A prominent factor of the present depression in Texas has been the requisitioning of untimely and often shoddy building production in the last few years. The wild-cats among building and loan and mortgage companies have been responsible for much of the ill-advised construction. The investor who relied upon a blind, misplaced confidence is directly responsible. Those large industrial corporations that have the widest distribution of stock have learned that it pays to give the stockholders frequent, truthful, and informing reports.

The building and loan business is basically sound, and unique in its functions. It will not be supplanted or suffer more than a healthy check in its progress. A comparative, analytical study of all of the associations of the state will show that the great majority of them deserve support. Present investment in a conservatively-managed association will yield an adequate return for the risk assumed and will materially aid the arrival of a sound prosperity.

## HIGH LIGHTS IN TEXAS BANKING HISTORY

By AVERY L. CARLSON

*Texas Christian University*

The first institution of a banking character to be established in the State of Texas was the firm of McKinney and Williams, a mercantile partnership consisting of Mr. Thomas F. McKinney and Mr. Samuel May Williams. This firm was established in 1835 in the town of Quintana on the Gulf of Mexico at the mouth of the Brazos River. Mr. McKinney was a pioneer business man during the period of Mexican rule, while Mr. Williams had served for several years as private secretary to Stephen F. Austin, the American colonizer of Texas. Much of our knowledge of Texas history during the Mexican régime is due to the excellent handwriting in which Mr. Williams kept the records of the Austin colony. The mercantile firm of McKinney and Williams was prosperous. They transacted a general commission business and gradually added banking functions to their work. Their business dealings extended as far as New Orleans and Philadelphia. The firm had some difficulties in meeting their financial obligations, a fact that is indicated by the numerous protested drafts to be found in the Williams manuscript collection preserved in the Rosenberg Library at Galveston, which this writer was permitted to examine in detail recently. At this time, gold and silver were scarce in Texas. There were no banks in operation. In order to carry on their mercantile and commission business, the firm found it necessary to extend credit to their customers, to accept drafts, and to discount promissory notes frequently. The banking business in Texas was born in the mercantile and commission business along the Gulf, particularly in Galveston.

The firm of McKinney and Williams was active during revolutionary days in raising funds for the struggling Republic of Texas. In 1835, they were called upon to provide \$100,000 for the revolutionary government; and they became the financial backers of the newly-created independent nation. The financial history of Texas prior to the revolution on March 2, 1836, is buried in obscurity. The Mexican federal government reserved to itself the power to control the currency of the country. The Mexican Constitution of 1824 conferred on the General Congress exclusive power, "to determine and render uniform, the weight, fineness, value, stamp, and denomination of the coins throughout

the Union." According to Gouge, an early writer, the currency of Mexican Texas consisted of gold and silver with a few notes of banks of the United States, which were brought to the region by the early immigrants. Land scrip and headrights issued to the early settlers also constituted a form of value that was frequently used as money. The period of the Republic of Texas (1836-1846) was also an era of wild-cat banks in the southern and western parts of the United States. Many American immigrants carried these bank notes to the new country. Some of these bills were good; but many of them proved to be of questionable value. However, they served to supplement the age-old Mexican dollars as a medium of exchange. Shortly after the termination of Mexican rule over Texas, we find the notes of the banks of Alabama, Louisiana, Mississippi, Tennessee, and the Bank of the United States quoted in Texas at a premium of from 10 to 50 cents. In the closing days of Mexican sovereignty over this region, the combined State of Coahuila and Texas granted to Samuel May Williams a twenty-year charter for the "Banco Comercial y Agriculture." (The Commercial and Agricultural Bank) to be established at Galveston. This charter was granted by the Mexican authorities at Monclova, Mexico, on April 30, 1835, partly as a concession to the rebellious Texans. It was the first charter granted to a bank within the boundaries of the present State of Texas.

The Commercial and Agricultural Bank charter lay dormant throughout the period of the Republic, since the promoters were unable to raise the necessary \$100,000 capital. In consequence the bank did not open until December 30, 1847.<sup>1</sup> This was a year after the admission of the State to the Union. This bank flourished at Galveston under the presidency of Samuel May Williams until his death on September 13, 1858. A branch, opened at Brownsville in the extreme southern part of the state shortly after the Galveston institution was opened, continued to function until the death of Mr. Williams. Although there were numerous requests for branches from people throughout the State, only one branch was ever opened in Texas. This bank always met its obligations promptly on demand. However, the work of the institution was seriously handicapped by litigation waged against

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<sup>1</sup>State of Texas v. Samuel May Williams. 8 Texas Law Reports 266 (1852).



its charter, which was finally held to be illegal by the Supreme Court of Texas in 1859.<sup>2</sup>

With the death of Mr. Williams, the good will of The Commercial and Agricultural Bank passed to Ball Hutchings & Company, a private bank, which continued in Galveston under the name of Hutchings, Sealy & Company, Unincorporated, until April 7, 1930, when it was merged with the South Texas National Bank, the new institution taking the name, Hutchings Sealy National Bank.

While there was only one chartered bank in operation in Texas prior to the Civil War, there were a number of commission firms, firms of lawyers, and land agents, who devoted part of their time to buying and selling exchange. In the absence of banks, the promissory note continued to play an important part in the commercial life of the people. The developing economic life fostered the growth of private money lenders in various counties throughout the state. These money lenders were the forerunners of the private bankers who dominated the banking business in Texas during the Reconstruction period and until the dawn of the twentieth century. In 1858, there were estimated to be 2,638 money lenders located in various counties of the state. Their total loans subject to taxation were reported at \$2,745,493. The following year, there were 3,031 money lenders. Their total loans as reported for taxation exceeded \$3,000,000.<sup>3</sup> In ante-bellum days, the cotton grower in Texas was financed by the cotton factor and commission merchant, who continued the old practice of making advance to the planter whose crop they subsequently purchased,—usually at their own price.

There were a number of these irregular financial institutions which functioned in Texas in ante-bellum days. For a number of years the house of R. & D. G. Mills carried on a business as cotton factors and commission merchants in Galveston. Mr. Robert Mills of the Galveston firm was also a partner in the firm of Mills, McDonnell & Company of New York City, and the firm of McDonnell, Mills and Company of New Orleans. The three firms were closely associated. Much of their paper passed through the hands of all three firms. R. & D. G. Mills of Galveston were considered to be the richest commercial concern in

<sup>2</sup>Samuel May Williams v. The State. 23 Texas Law Reports 264 (1859). For a detailed account of this bank see, Carlson, Avery L. "The Origin of Banking in Texas," *The Texas Monthly*, November, 1929, pp. 481-499.

<sup>3</sup>*Texas Almanac*, 1859, pp. 215-216; *ibid.*, 1860, pp. 204-207.



Texas, and the people had full confidence in them. Gradually they began to accept deposits and deal in exchange as an accommodation to their customers. The prevailing rate of interest was 12 per cent. This firm soon found it necessary to provide their growing clientele with some form of paper money. But the Texas statute of 1846 prohibited any person from issuing bills, checks, or promissory notes to circulate as money. As a result of their unfortunate experience with monetary problems during the period of the Republic, the people were afraid of banks and paper money. Consequently, this was a period of opposition to banks and all forms of paper money or bank notes. The firm of R. & D. G. Mills & Company evaded the legal restriction against the issuance of paper money by taking the large volume of bank notes issued by the Northern Bank of Mississippi, a wild-cat institution at Holly Springs, Mississippi, indorsing them, and placing them in circulation at Galveston. While the notes of the Northern Bank of Mississippi were worthless and rejected everywhere, the indorsement of R. & D. G. Mills gave them value, and such indorsed notes were soon in demand everywhere. They were then known as "Mills Money." "Mills Money" became the recognized currency in Texas in the 50's and was considered equivalent to gold. In a suit against the firm in 1859 the practice was upheld on the grounds that R. & D. G. Mills & Co. had merely reissued notes that had already been issued by a bank in another state, hence the Texas statute did not apply. Until the outbreak of the Civil War, "Mills Money" was the prevailing paper money in Texas.

Samuel May Williams was the father of Texas banking. While he opened the first chartered bank in the state, and devoted the main portion of his time to this institution, he had extensive land and commercial interests also. The first man in Texas to devote his time exclusively to banking was Mr. B. A. Shepherd of Houston, who established an office in 1854. His letterheads bore the words "B. A. Shepherd Exchange and Collection Office, Houston, Texas." An examination of some of his correspondence in the Williams Manuscript Collection in the Rosenberg Library at Galveston indicates that Mr. Shepherd discounted bills, extended credit, and carried on a general brokerage and banking business. Mr. T. W. House of Houston was another prominent financier of this period.

The foundation of modern banking in Texas was laid between 1861 and the close of Reconstruction in 1873. The first national bank in Texas to be chartered under the National Bank Act of 1863 was the First National Bank which opened at Galveston on September 22, 1865. This was the second chartered bank in the state. It is still in existence. Eight national banks were chartered in the state during the period. However, the private banks increased much faster than the national banks during the Reconstruction régime. The money lenders and semi-mercantile bank organizations of ante-bellum days were succeeded by the private bankers. To a large extent the private bankers dominated commercial life in Texas until after the panic of 1893.

One of the forgotten chapters in Texas banking history is the first state banking system created in the early 70's, under the Constitution of 1869. The Reconstruction Government which promulgated that Constitution omitted the clause which prohibited banks. This was the first time that banks were not prohibited in the State of Texas. The people of Texas in common with the people of many other western and southern states were opposed to banks. They believed these institutions were dangerous corporations. As a result of the omission of the anti-bank clause in the Constitution of 1869, eight state banks were created by special acts of the Legislature between 1870 and 1873.<sup>4</sup> The Island City Savings Bank was the first state bank which received a charter from the sovereign State of Texas, and which actually functioned as a bank. It was chartered in 1870, and flourished at Galveston for a period of 15 years. A reorganization occurred in 1885, and the institution was still functioning and successfully met a run in 1891.

The growing demand for state banks resulted in the enactment of the general banking law of 1874. A total of ten additional

<sup>4</sup>For a discussion of these banks see, Carlson, Avery L., "Laying the Foundations of Texas Banking," *The Texas Monthly*, December, 1929, p. 628. These banks were as follows:

Name	Location	Date Chartered	Closed
1. Island City Savings Bank	Galveston	June 20, 1870	1885
2. Texas Banking and Insur. Co.	Galveston	July 1, 1870	1889
3. City Bank of Houston	Houston	July 21, 1870	1886
4. State Central Bank of Waco	Waco	August 8, 1870	—
5. Citizens Bank of Navasota	Navasota	March 31, 1871	—
6. Galveston Bank and Trust Co.	Galveston	December 2, 1871	1882
7. City Bank of Sherman	Sherman	April 11, 1873	—
8. City Bank of Dallas	Dallas	May 31, 1873	1880

state banks were chartered under this law. Many of them had long careers.<sup>5</sup>

Doubtless these early state banks rendered a valuable service to the people of Texas. The official reports indicate that their deposits were relatively large, and that they made extensive loans.<sup>6</sup> These institutions together with the numerous private banks and the limited number of national banks flourished over the state before the days of adding machines, comptometers, typewriters, electric lights, and modern banking facilities. Their books were kept and balances prepared in the handwriting of the bookkeepers. Banking was a personal matter between the banker and his customers. Loans were made largely on the basis of character and the needs of the borrower. The impersonal attitude of the modern twentieth century banker was unknown in the 70's and 80's. The small-town banker knew each customer personally, and frequently called him by his first name. The ideals, services, and policies of these men who laid the foundation of Texas banking enabled them to build well. Texas owes much to her pioneer bankers.

The adoption of the Constitution of 1876, which is the present State Constitution, restored the constitutional prohibition of state banks. No more state banks were chartered in Texas until after the restoration of the State Banking System in 1905, when the Constitution was amended to permit state banks. By 1905 there were approximately 197 private banks and 421 national banks in operation in Texas. In 1928 there were 641 national banks and 228 state banks in operation. The private banks were negligible in number.

<sup>5</sup>For an account of these banks see, Carlson, Avery L. "Laying the Foundations of Texas Banking," *The Texas Monthly*, December, 1929, p. 631. These banks were as follows:

Name	Location	Chartered	Closed
1. The Merch. and Planters Bk.	Sherman	Sept. 28, 1872	1884
2. The Fannin County Bank	Bonham	Jan. 27, 1874	1898
3. Farmers and Merchants Bk.	Paris	May 16, 1874	1896
4. The Red River County Bk.	Clarksville	Sept. 12, 1874	1894
5. The Paris Exchange Bk.	Paris	Jan. 28, 1875	1896
6. The Exch. Bank of Dallas	Dallas	Oct. 11, 1875	1887
7 State Savings Bk. of Dallas	Dallas	December, 1875	—
8. Drovers and Planters Bk.	Denison	1876	1877
9. Merchants and Planters Bk.	Denison	—	1878
10. Citizens Savings Bank	Jefferson	—	—

<sup>6</sup>*Biennial Reports of the Texas Secretary of State, 1879-1881, pp. 41, et seq.*

With the restoration of the State Banking System in 1905, the private banks began to decrease in number. An attempt was made to extend state supervision over the private banks at this time, but it was defeated after a bitter struggle in the Legislature. However, the rise of the State Banking System was paralleled by a decline in the number of private banks. Many of the private banks were converted into state and national banks. At the present time, there are only a few private banks in Texas; and the organization of new ones is entirely prohibited. The restored State Banking System flourished from 1905 to 1924, when many of the state institutions joined the national banking system in order to escape the increasing burdens of the Depositor's Guaranty System which was adopted in Texas in 1909, and repealed as a failure in 1927, encouraged recklessness, with the result that all of the state banks suffered from the burdens of the system in the four years following the depression of 1920, and many of them failed. Although there are a number of strong state banks today, and new ones are being organized, the national banks now predominate in the state. The national banking system introduced in Texas in 1865 has continued to increase in prestige and power through sixty-five years of interesting financial history.

The monetary and banking history of Texas may, therefore, be summarized under the following heads:

1. The economic and political background of early Texas, 1821-1835.
2. Monetary problems of the Republic of Texas, 1836-1845.
3. Texas monetary problems from statehood to the Civil War, 1846-1860.
4. Laying the foundation of modern banking in Texas, 1861-1873.
5. The period of bank promotion, 1874-1893.
6. Texas banking at the turn of the century, 1894-1905.
7. Correlation of state and national banking, 1906-1918.
8. Post World War banking in Texas, 1919-1930.

The monetary and banking history of Texas is an excellent cross-section of the history of money and banking in the United States. It is to be hoped that this history, so rich in monetary and banking principles, will be preserved for posterity. In the making of this history, Texas bankers have been faithful public servants. The bankers of today and the future may learn many valuable lessons from that record.



## ELEVENTH ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE ASSOCIATION

The eleventh annual meeting of the Southwestern Political and Social Science Association was held in the Jefferson Hotel, Dallas, Texas, April 18 and 19, 1930. The program, corrected as far as possible, was as follows:

### FRIDAY MORNING, APRIL 18

#### Economics Section (Agricultural Economics attending)

Chairman: E. A. Elliott, Texas Christian University.

Organization: Registration; election of program chairman for 1930-1931.

Topic: *Judicial Fair Value and Its Effects on Public-Utility Regulation.*

1. *General Review, 1876-1930: Judicial Fair Value and the Price Level*, R. H. Montgomery, University of Texas.

Discussion: Donald Scott, Southern Methodist University.

2. *Intangible Assets in Judicial Fair Value*, Jack Johnson, North Texas State Teachers College.

Discussion: L. R. Gray, University of Arizona.

3. *Tangible Assets in Judicial Fair Value*, A. S. Lang, Baylor University.

#### Agricultural Economics Section

##### (Problems of Public Utility Valuation and Regulation)

Joint session with general Economics.

#### Sociology Section

Chairman: W. P. Mernoey, Baylor University.

Secretary: Carl Rosenquist, University of Texas.

Organization: Registration; election of program chairman for 1930-1931.

Topic: *Race Problems.*

1. *How to Study Racial Situations and Problems*, William C. Smith, Texas Christian University.

Discussion.

2. *Trends of the Mexican Population in the Southwest*, M. S. Handman, University of Texas.

*The Work of the Inter-Racial Commission and College Courses on Race Relations*, R. M. Wood, Huntsville, Texas.

Discussion.

#### Government Section

Chairman: H. H. Guice, Southern Methodist University.

Secretary: Max R. White, University of Texas.

Organization: Registration; election of program chairman for 1930-1931.

*Senate Procrastination in the Consideration of Treaties*, Royden J. Daingerfield, University of Oklahoma.

Discussion: S. B. McAlister, North Texas State Teachers College.



*Reduction, Parity, The Kellogg-Briand Pact—Security and Peace*, D. Y. Thomas, University of Arkansas.

Discussion: W. A. Stephenson, Simmons University.

**FRIDAY, APRIL 18, 12:30 P. M.**

Economics luncheon.

Round table: *A Social Science Research Program in the Southwest*.

Leader, Max S. Handman, University of Texas.

Agricultural Economics luncheon.

Round table: *Problem of Crop Adjustment and Land Utilization in the Southwest*. Leader, C. A. Bonnen, Texas A. and M. College.

Sociology luncheon, Civic Federation.

**FRIDAY AFTERNOON, APRIL 18**

**Economics and Business Administration Sections**

**(Joint Session)**

Chairman: R. H. Montgomery, University of Texas.

Topics: A. *Sources of State Revenues*.

1. *Estimates of Yields from Taxation of Personal Incomes and Corporate Surpluses in Texas*, W. O. Suiter, Texas Christian University.

2. *Taxation and Revenue Problems of Oklahoma*, E. C. Petty, University of Oklahoma.

B. *Labor Problems*.

1. *Labor Policies of Welfare Capitalism*, E. E. Hale, University of Texas.

Discussion: S. H. Moore, Southern Methodist University; O. C. Corry, Texas Technological College.

2. *The Labor of Women on the Cotton Farms of Texas*, Ruth Allen, University of Texas.

**Agricultural Economics Section**

Chairman: J. T. Sanders, Oklahoma A. and M. College.

Topics: *The Economic Status of Tenantry of a Texas Cotton Estate*, Edwin A. Elliott, Texas Christian University.

Discussion: J. T. Sanders, Oklahoma A. and M. College.

*Financing Agriculture as a Phase of Agricultural Reform*, Roy L. Thompson, Louisiana State University.

Discussion: P. H. Stephens, Oklahoma A. and M. College; J. F. Smith, Texas A. and M. College.

*Set-up of the Mid-South Cotton Growers' Association*, C. O. Brannen, University of Arkansas.

**Sociology Section**

**Civic Federation of Dallas, 2419 Maple Avenue**

Chairman: W. E. Gettys, University of Texas.

Topic: *Problems in Teaching Sociology*; Round table:

*The Introductory Course*, T. C. McCormick, East Central State Teachers College, Ada, Oklahoma.

*The Social Problems Course*, Carl M. Rosenquist, University of Texas.

*The Family Course*, J. W. Marrs, University of Oklahoma.

General round-table discussion.

#### Government Section

Chairman: G. C. Hester, Southwestern University.

Secretary: Max R. White, University of Texas.

Topics: *Public Administration and Political Theory*, Robert M. Duncan, Texas Christian University.

Discussion: W. A. Jackson, Texas Technological College.

*Use of the License Law in the Regulation of Professions and Business*, Hugo Wall, University of Wichita.

Discussion: H. A. Calkins, University of Texas.

#### History Section

Chairman: J. C. Granberry, Texas Technological College.

Organization: Registration; election of program chairman for 1930-1931.

Topics: *Texas and the Southern Pacific Railroad, 1848-1860*, S. S. McKay, Texas Technological College.

*Charles Goodnight and the Panhandle Stock Association*, J. Evetts Haley, University of Texas.

FRIDAY, APRIL 18, 6:30 P. M.

#### Convention Dinner

Chairman: C. S. Potts, Law School, Southern Methodist University.

Presidential Address: *The Marvels of Modern Banking*, M. K. Graham, Graham, Texas.

SATURDAY MORNING, APRIL 19

#### Agricultural Economics Section

(Joint Meeting with Economics Section)

Chairman: C. A. Bonnen, Texas A. and M. College.

Topics: *Possibilities of Gains Through Stabilization of Farm Prices*, C. A. Duval, University of Texas.

*The Federal Farm Board and the Agricultural Credit System*, V. P. Lee, Texas A. and M. College.

Discussion: A. B. Cox, University of Texas.

*Proposed Programs for Correction of Economic Inequality of Agriculture*, J. T. Sanders, Oklahoma A. and M. College.

General discussion.

#### Sociology Section

Chairman: W. P. Meroney, Baylor University.

Topics: *Aspects and Characteristics of Social Movements*, D. E. Proctor, Baylor University.

*Monotony*, Walter T. Watson, Southern Methodist University.  
*Schools of Sociology*, L. L. Bernard, Washington University.

#### Government Section

Chairman: F. M. Stewart, University of Texas.

Secretary: Max R. White, University of Texas.

Topics: *The Texas-Mexican and the Politics of South Texas*, O. D. Weeks, University of Texas.

*Legislative Reforms in State Government*, Round table: Discussion led by L. G. Halden, University of Texas.

1. *The Unicameral System*, C. D. Judd, College of Industrial Arts.
2. *Procedural Reform*, Joseph Clark, Sam Houston State Teachers College.
3. *Administrative Reorganization and Legislation*, W. A. Jackson, Texas Technological College.
4. *The Primary System and Legislation*, J. W. Pender, North Texas State Teachers College.

#### Business Administration Section

Chairman: Donald Scott, Southern Methodist University.

Topics: *The Present Building and Loan Situation*, H. F. Clark, United Guaranty Security Company.

Discussion: E. Karl McGinnis, University of Texas.

*The Chain-Store Problem*, W. L. White, University of Texas.

Discussion.

#### History Section

Chairman: S. S. McKay, Texas Technological College.

Topics: *Early German Settlements in Texas*, R. L. Bieseke, University of Texas.

Discussion.

*Southwestern Culture Prior to 1850*, Samuel Geiser, Southern Methodist University.

Discussion.

*Survey of Texas History Writing: Unworked Problems*, E. C. Barker, University of Texas.

Discussion.

#### SATURDAY, APRIL 19, 12:30 P. M.

##### Business Luncheon

Chairman: M. K. Graham, Graham, Texas.

At the conclusion of this session the Executive Council of the Association met. The program chairmen for 1930-1931 met at the same time to elect a general chairman.

All general and sectional sessions were well attended, the registration of members and visitors being as follows: Agricultural economics, 20; business administration, 27; economics, 25; government, 32; history, 22; sociology, 25; total, 151. Figures are net, all duplications of names being elim-

inated. The net total last year was 226, but it included the names of students who attended the sectional meetings.

The entire meeting was characterized by sustained interest and enthusiasm. It marked the tenth anniversary of the founding of the association, and in consequence members could feel confident that if its past record and present condition were to be considered as bases of judgment, then the future of the organization was secure. It was a matter of satisfaction to all present that the sociology section registered a great gain in attendance and interest and that all other sections more than held their own.

Two or three features of the program call for special attention. One was the group luncheons arranged by the economics, agricultural economics, and sociology sections. They served admirably to develop a spirit of fellowship in the respective groups. Another noteworthy feature was the combination programs centering around a major topic. Thus on Saturday morning economics and agricultural economics combined to discuss the topic of "Possibilities of Gains Through Stabilization of Farm Prices." Attention should also be called to the general interest taken in the convention dinner Friday evening, the principal feature of which was the carefully prepared, thoughtful address of the president, Mr. M. K. Graham, upon the subject of *The Marvels of Modern Banking*.

The annual business luncheon and meeting was attended by seventy members. President Graham presided at the business session. The usual order of business was followed, to wit: Reports by the secretary-treasurer upon membership and finances, by the Board of Editors upon the *Quarterly*, and by the committees on nominations and resolutions.

The report on membership revealed the net total to be 266 as against 280 for the previous year, the decrease being due to the practical completion of the policy of eliminating the names of all members in arrears. Since the compilation of the report the campaign for new members has already overcome the loss.

The financial condition of the association may best be shown by the following statement:

**FINANCIAL STATEMENT FOR TENTH FISCAL YEAR, ENDING  
MARCH 31, 1930**

**Receipts:**

**Membership—**

Contributing \_\_\_\_\_ \$ 30.00

Sustaining \_\_\_\_\_ 25.00

Active \_\_\_\_\_ 903.25

Total \_\_\_\_\_ \$ 958.25

Sale of publications \_\_\_\_\_ 70.00

Refund on reprints \_\_\_\_\_ 58.45

U. of T. appropriation \_\_\_\_\_ 500.00

Luncheon and dinner tickets \_\_\_\_\_ 170.00

Total receipts \_\_\_\_\_ \$1,756.70

**Expenses:**

Transportation \_\_\_\_\_ \$ 10.00

## Printing:

March Quarterly	\$445.20
June Quarterly	409.75
September Quarterly	283.57
December Quarterly	268.35
Total	\$1,406.87
Etchings	10.50
Reprints	160.05
Membership cards	3.65
Invitations	8.15
Programs	41.80
Tickets	3.50
Bill forms	4.00
Total printing	\$1,638.52
Clerical help	22.00
Stenographic supplies and stamps	150.26
Incidentals for tenth meeting	30.00
Telegrams, telephone	25.06
Mailing Quarterly	14.55
Convention dinner and luncheon	183.75
Post-office deposit and box rent	22.00
Salary of secretary-treasurer	300.00
Stanford University, to adjust subscription	2.25
Total expenses	\$2,388.39
Deficit for current year	631.69
Balance from 1928-1929	1,048.04
BALANCE, MARCH 31, 1930	\$ 406.35

The statement reveals a still further decrease in the year-end balance and an increase in the deficit for the current year. Thanks to the existence of a balance of \$1,474.50 at the end of 1927-1928 the deficits for the following years caused no great inconvenience and enables the association to enter the new year with the relatively small balance of \$406.35. The worst feature of the report was the reduction from \$1,500 to \$500 of the University of Texas appropriation. The best feature was the marked increase or nearly 33 1/3 per cent in the receipts from membership dues. Considerable savings were effected during the year by abandoning the policy of paying for some articles.

The report of the Board of Editors was made by Professor C. P. Patterson. He presented certain data on the *Quarterly* showing number of manuscripts handled, distribution of articles by schools and fields, total pages published, distribution of space, and average cost per issue and per page. In conclusion he pointed out the serious needs of the *Quarterly*, not only as to financial support but also as to contributions of manuscripts.

The report of the Committee on Nominations, composed of Profs. W. A. Jackson, C. O. Brannen, and L. W. Newton, was made by Professor Jackson. Officers for 1930-1931 were nominated and elected as follows: President, D. Y. Thomas, University of Arkansas; vice-presidents, J. Q. Dealey, Dallas,



Texas, J. F. Zimmerman, University of New Mexico, and M. J. White, Tulane University; elected members of the Executive Council, H. H. Guice, Southern Methodist University, and W. J. McConnell, North Texas State Teachers College. Upon invitation Professor Thomas spoke briefly of his appreciation on being elected to the office of president and of his desire to be of service in furthering the interests of the association.

The report of the Committee on Resolutions, composed of Profs. W. P. Meroney and O. Douglas Weeks, was made by Professor Meroney. The first resolution was as follows:

BE IT RESOLVED by the members of the Southwestern Political and Social Science Association that thanks be extended to Mr. Elmer Scott and others for their courtesy and efficiency in making arrangements for the annual meeting of the association in Dallas for 1930; to the Civic Federation of Dallas for the hospitality extended to sections of the meeting; and to the press for the generous publicity given the proceedings of the meeting.

This resolution was adopted, as was the following resolution:

WHEREAS, great interest in research in the social sciences has recently been aroused throughout the country and with many valuable results, and

WHEREAS, the Southwest presents practically a new and untouched field for such research, much investigation being needed which should be undertaken by Southwestern scholars,

BE IT RESOLVED that the Southwestern Political and Social Science Association authorize the appointment of a committee to study the possibilities for research in the Southwest in regard to such matters as personnel, teaching load, library facilities, willingness of university and college administrative authorities to relieve those who have definite research programs from a certain amount of teaching and to furnish them with a certain amount of equipment needed, and to report back to this association their findings at the next annual meeting with such suggestions with reference to a program of research in the social sciences as they may see fit.

M. S. HANDMAN.  
W. F. HAUHART.  
O. D. WEEKS.

As to this last resolution, which was adopted without opposition, it was decided that the committee provided therein should be appointed by the president of the association.

Professor Meroney then presented the following resolution, which had been adopted by the Business Administration section:

The Business Administration section suggests that the Executive Council give representation to each section of the association in the editorial management of the *Quarterly*.

After rather spirited discussion it was adopted.

Professors Granbery and W. A. Jackson then invited the Executive Council to consider Lubbock for the place of meeting in 1931.

The regular items on the program of the business session having been disposed of, the several sections reported the names of their program chairmen for 1930-31. They were as follows: Agricultural Economics, J. T. Sanders, Oklahoma Agricultural and Mechanical College (since resigned

owing to absence in Europe for the ensuing year, his place being filled by Prof. O. D. Duncan of the same institution); Business Administration, J. B. Trant, Louisiana State University; Economics, R. H. Montgomery, University of Texas; Government, W. A. Jackson, Texas Technological College; History, R. N. Richardson, Simmons University; Sociology, Carl M. Rosenquist, University of Texas. The general chairman is Carl M. Rosenquist, University of Texas.

After the business meeting adjourned, the Executive Council met to consider such matters as are entrusted to it by the Constitution and by the business meeting. The following members were present: D. Y. Thomas, M. K. Graham, C. P. Patterson, M. S. Handman, H. H. Guice, and Charles A. Timm. In order to carry out the terms of the resolution relating to representation of the several sections in the management of the *Quarterly* the council decided that the Board of Editors should nominate to it a list of names for membership on the Advisory Editorial Board. The council then filled the offices of editors and secretary-treasurer. The new Board of Editors consists of C. P. Patterson, M. S. Handman, and W. L. White, the first two being re-elected. Professor White was elected to fill the place of Prof. George W. Stocking, who generously gave up his place in order that another section of the association might be represented on the board. No change was made in the office of secretary-treasurer. No decision was reached as to the time and place of meeting in 1931. Instead, the secretary-treasurer was instructed to ascertain the wishes of the members upon those matters.

CHARLES A. TIMM,  
Secretary-Treasurer.

## BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS

*The University of Texas*

Thompson, Warren S., *Danger Spots in World Population*. (New York: Alfred A. Knopf, 1929, pp. 343.)

Duncan, Hannibal G., *Race and Population Problems*. (New York: Longmans, Green and Co., 1929, pp. 424.)

Post-war population literature continues almost undiminished in volume but much improved in scientific character. Writings dealing with this subject may be divided roughly into three classes: (a) the purely statistical such as R. R. Kuczynski's "The Balance of Births and Deaths"; (b) the propagandistic such as E. A. Ross's "Standing Room Only"; and (c) the interpretive, within which class falls "Danger Spots in World Population."

Dr. Thompson, who is the Director of the Scripps Foundation for Population Research, is concerned with the problem, "will the efforts to equalize (population) pressures result in war or will some other method of adjustment be found?" In the course of his book he sets forth a novel and pacificatory solution of this problem.

In the world today we find two sets of countries: those wherein the population has become practically stationary and those wherein the population is multiplying at a rapid rate. Certain of the former countries own the unoccupied land of the world but are unable to people it; the latter group of countries will soon have filled their present boundaries and will then require further land into which to expand. Will the former set of countries agree to distribute their unneeded colonial territory among the swarming, land hungry peoples or will the latter be compelled to fight for this land?

The countries whose birth and death rates are as yet uncontrolled or only partially controlled and who within one to three decades will require further land into which to expand are Japan, China, and India in Asia, and Italy, Spain, Poland, Yugoslavia, Roumania and the other Balkan countries in Europe. Russia is not included because it can expand into Siberia. Industrialization can offer little relief to Japan, China, India, or Italy, for each is lacking in the essential resources and hence cannot expect to enter effectively the world-wide competition for markets. The extensive cultivation of submarginal lands in China may nearly double that country's capacity provided the present standard of living is maintained. Japan at best can provide for only twenty more millions. The situation in India is equally bad. The countries in central and southeastern Europe will feel population pressure keenly within one to three decades.

The fundamental solution, as Thompson points out, is the control of further population growth by means of birth control. However, it will require some time before contraception information and the incentive to employ it can be disseminated throughout these "swarming" countries. Consequently it is essential, if war is to be avoided, that these people be given

unneeded land so as to ease their population pressure until birth control will have permanently checked their further growth.

The unneeded land is possessed by countries whose population has nearly ceased to grow: By Great Britain or her Dominions, France, Holland, Belgium, and Portugal. The United States is excluded since the Philippines are likely soon to become independent. Temperate Australia which can support possibly 35 millions has a slow growing population of six millions for the birth rate is low and almost all but British agriculturists (of whom there are but few) are denied admission as immigrants. Tropical Australia is almost certain to remain unsettled by whites. Thompson therefore urges that, if temperate Australia is to remain white, British non-agriculturists and agriculturists from Italy, Poland, and central and southeastern Europe must be accepted as immigrants. A similar policy must be followed in South Africa where but one-fifth of the population is white and where but few agriculturists are immigrating. Tropical Australia which could support at least 25 millions of Japanese at current standards could be disposed of to Japan, or could be developed under Australian supervision by Chinese, Indians, and Japanese.

The Dutch East Indies, British Borneo and New Guinea, and the Philippines exceed one million square miles and could support possibly 300 more millions of Orientals at present standards. These islands are not being settled by Europeans; they are not of much value to their owners; consequently they ought to be disposed of to China and Japan. Indian population pressure can be relieved by Kenya Colony in Africa and Madagascar, which together include an area almost the same as that of India, and which could support a population equal to that of India; for there are few whites in this region which is well adapted to Indian agriculture.

The European countries can secure relief from population pressure with equal facility. Many can, if permitted, emigrate to Australia, South Africa, Canada, and South America. Slavs and Poles can move into Asiatic Russia. France can open Syria and French North Africa, neither of which is being peopled by the French, to Italian immigrants.

Provided the above suggestions are carried out Italy will become an ally of France, Japan will cease to be a potential enemy of Australia or Great Britain, awaiting an opportunity to seize territory. The increasingly difficult problem of Chinese and Indian population pressure will be relieved. The countries involved will be able to reduce their military expenditures as well as to employ their capital more efficiently than in sparsely settled colonies. The position of the expanding peoples will not be strengthened, for the new colonies settled by the Orientals will not long remain a part of the mother country.

The lead in this proposed peaceable redistribution of unneeded colonial territory must be taken by Great Britain which controls a large part of the unneeded area and which stands to gain in markets and reduced costs by inaugurating such a redistribution. If France can be persuaded to do likewise, Holland, Belgium, and Portugal will be compelled to follow suit. Thompson suggests that the land needing nations make their economic wants known to the world and that these be considered by an international body.



Thompson's proposed solution is difficult to appraise. It has the merit of being realistic even though it runs counter to all the canons of imperialism. It is likely that international public opinion could be molded so as to favor its adoption provided the swarming nations to whom the land was disposed were to give concrete evidence that their birth rates were rapidly being brought under control. Provided this assurance was not given it were possibly better to crush the swarming nations before they become more numerous. Certain writers would question whether the Japanese can stand a tropical climate such as that of Australia.

The book is lucidly written. It is in no way marked, as certain reviewers have implied, by a white race complex. A bibliography and an index are appended. The sources of the tabular data are unfortunately not cited. No reference is made to Kuczynski's findings relative to the cessation of growth in Northern Europe, nor is it indicated that Kuczynski is now completing several books which will give a complete demographic picture of the world.

"Race and Population Problems," according to Professor H. G. Duncan, "is designed as a general introduction to population problems." Part I deals with man's origin and the formation and classification of races. Part II heredity, eugenics, the inferiority and superiority of races, and amalgamation are created. Part III deals with the movements of population and the diffusion of culture, and Part IV with the pre-Malthusian, the Malthusian, and the post-Malthusian theories of population. In Part V the author is concerned with the population of the earth, fecundity and fertility, methods of controlling population growth, the modern birth-control movement, and the relation of population to food supply.

It is obvious, therefore, that this book can hardly serve as the only text in a population course. The problem of world migration is neglected. The moot subject of optimum is barely mentioned. The post-Malthusian theories are not treated adequately. The subjects covered in Part V require expansion. In short the general text in population remains to be written.

J. J. SPENGLER

Ohio State University.

Seymour, Charles. *The Intimate Papers of Colonel House Arranged as a Narrative*. Volume III, *Into the World War*; Vol. IV, *The Ending of the War*. (Boston and New York: Houghton Mifflin Co., 1928, pp. xx, 453; xiv, 552.)

The last two volumes of Colonel House's *Intimate Papers* carry forward the record of his amazing activities as the confidential adviser and personal representative of President Wilson from the entry of the United States into the World War through the making of the Peace Treaty. The documents here presented have been selected from a great mass of papers which Colonel House deposited in the Library of Yale University. In the Preface to the third volume the editor says:

If any attempt had been made to reproduce the substance of the numerous and complicated problems which were brought to House's attention—diplomatic, naval, military, economic—and upon which lengthy memoranda were written, the book would have been extended into a whole library of volumes. Exigencies of space have



compelled omission of reference to all but the most significant problems.

The selection seems to have been made with great skill; and Professor Seymour has carefully sketched in enough of the background to give the material its proper setting.

Most of the material is grouped around the following three subjects, all of which were parts of a definite program: the attempt to bring about a better coordination of the war efforts of the United States and the Allies; the formulation and promulgation of a set of war aims which would detach the peoples of the Central Powers from their military leaders and disintegrate their resistance—"build a fire behind Ludendorff"—and at the same time commit the leaders of the Allies to the principles of a just and permanent peace; and the effort, finally, to embody these principles in the peace treaty and in more enduring form in the Covenant of the League of Nations. The first two parts of the program were successful; the third was a failure.

Immediately after the United States entered the war, British and French commissioners to this country revealed the desperate conditions behind the Allied front and the need of supplies of all sorts from America. House did them great service in cutting red tape and bringing them into quicker contact with the President and the heads of those groups who were mobilizing American finance, industry, and shipping. His personal acquaintance with European leaders, gained while in Europe during the first two years of the war, gave him peculiar advantages as a liaison officer between them and Wilson. This was exemplified when late in October, 1917, he was sent to Europe by the President as head of the American War Mission, and helped to give stability to the newly formed Supreme War Council. He also sought to bring about closer union among the Allies, for unity was painfully lacking, and, what Wilson and House especially desired, a definition of war aims which might hold Russia in the war and constitute a new diplomatic offensive against the Central Powers. House was unable to bring this about, for the Allies were jealous and suspicious of each other's motives. When he returned to the United States in December, it was with the conviction that the President should do what the Allied statesmen had failed to do. Wilson was of the same opinion. The result was the celebrated address of January 8, 1918, announcing the Fourteen Points as the bases of peace. The sincerity of the American purposes, thus defined by Wilson, was almost immediately challenged by the Allied demand for Japanese intervention in Siberia because of the collapse of the Russian resistance. Both House and Wilson were opposed to the intervention and prevented it until the Allied statesmen shifted to a scheme of joint intervention. Wilson finally yielded, with uneasy reluctance.

When the strain upon German resources, the weakening of the morale of the German people, and the threatened disintegration of their armies forced the German leaders to ask for peace, it was to Wilson that they made their plea. This gave him a peculiarly favorable opportunity to impose the principles of the Fourteen Points upon both combatants; and both Germans and Allies accepted those principles as the basis of the peace which was to follow the armistice. That the Allies accepted was due to the work of House who was again in Paris, and it was a great diplomatic triumph for him. On the

surface it looked as if the Wilsonian ideals were about to be realized. The President himself was in a mood of exalted optimism, not seeing the obstacles in his way.

One of the difficulties was the matter of the secret treaties among the Allies. House's own narrative shows that the President knew of the Treaty of London as early as April, 1917, although Wilson later denied it. He did not know about the arrangement concerning Shantung until he reached Paris, and House suggests that he was confused about the dates when he made his famous statement to the Foreign Relations Committee of the Senate. In view of the military situation in the summer of 1917, it is easy to see why Wilson could not afford to take sharp issue at once with the Allies over the Treaty of London, and it seems quite probable that he hoped to supersede those early commitments by forcing the acceptance of his own ideals. This may explain his frequent reiteration of those broad principles during the next year. Another element of weakness in the President's position when he went to Paris was the sweeping victory of the Republicans in the congressional elections of 1918; and the chief contributing factor to that result had been Wilson's own blundering appeal to the people to return a Democratic Congress. House had been no party to this and was greatly shocked when he read it. The election placed a hostile majority in control of the Senate, weakened Wilson in the Peace Congress and placed him on the defensive in his fight for his Fourteen Points.

The long story of the drafting of the Treaty cannot be followed here in detail, but Colonel House's attitude toward and part in some of the developments may be indicated. It is interesting to learn that he had opposed Wilson's going to Paris, stepping from his pedestal into the arena; and that he insisted upon the appointment of either Root or Taft on the peace commission. Until the President arrived on the scene, House had managed to hold his ground by playing off one country against the other, or by giving way on what he considered unimportant details, and by never losing his temper. Wilson was temperamentally unfitted for such tactics, and his devotion to his project of a League of Nations was utilized by the astute European statesmen who traded concession after concession out of him in return for the League. The narrative shows how discussions raged about the Saar Valley, the Tyrol, Fiume, Shantung, the handling of reparations, and how the President gave way in one after the other, though managing usually to save his face by some compromise and comforting himself in the belief that the League would later right all wrongs. House supported him loyally, but the Colonel's own testimony indicates that he was himself quick to grasp at compromise and to felicitate Wilson upon his surrenders. When Wilson finally acceded to Clemenceau's demand for the west bank of the Rhine and the protection of the United States against Germany, "he made a wry face over some of it"; and the Colonel hastened to congratulate the Tiger. "I am the bearer of good news. The President has consented to all you asked of me yesterday.' He grasped both my hands and then embraced me." But when he reflected over the day's events as he dictated his diary at night, House was not always so well satisfied with what had been done. He really wished the Allies to act with decency toward the conquered peoples, and it pained him that they would not. He was distressed at the

post-armistice economic blockade of Germany and Vienna. And when the Treaty was finished, his kindly spirit revolted at the elaborate display staged for the humiliation of the Germans who were brought to Versailles to sign it. As he left Paris he reflected on the character of the treaty which he had helped to frame and conceded that it was bad; but he consoled himself with the saving thought that "the ingredients for such a peace as I would have had were lacking in Paris . . . . And yet I wish we had taken the other road . . ."

When Wilson returned to America to make his fight for the ratification of the Treaty, he asked House to go to London to represent the United States on the commission to draft conditions for the operation of Mandates. When he sailed for New York, just after Wilson's collapse, he was ill himself. After he had recovered, he awaited an invitation to Washington, but it never came. The two men never saw each other again after they parted in Paris. There was no break, but a shadow had come between them which neither his editor nor Colonel House could explain. If he has a private opinion about it, Colonel House has dropped a curtain before the eyes of the curious. At any rate, the four volumes of his *Papers* constitute a unique record of friendship between a great leader and an able and unselfish counsellor. It is to the credit of both men that they could work so long together, in such intimacy, and in such mutual love and confidence.

CHARLES W. RAMSDELL.

The University of Texas.

*Recent Economic Changes in the United States.* (New York: McGraw-Hill Book Company, 1929, two volumes, pp. xxxvi, 950.)

As our industrial system has become more complex, more closely balanced, more delicately articulated, its smooth and even functioning has become more dependent upon intelligent social control. Prerequisite to such control is a knowledge of the detailed facts of our economic life. As the outgrowth of the President's Conference on Unemployment of 1921, three national surveys have been conducted to supply this needed body of facts. The first of these surveys was the study of *Business Cycles and Unemployment* made in 1922-1923. The second, the study of *Seasonal Operation in the Construction Industries*, was completed in 1924. The results of the third of these surveys is contained in the two volumes, *Recent Economic Changes*. This study was conducted under the general supervision of a committee presided over by Herbert Hoover and comprising a distinguished body of American business leaders. The basic investigations and the findings of fact were made under the auspices of the National Bureau of Economic Research. Conducted as it was by a group of experts, assisted by an unprecedented number of governmental and private agencies, the study represents an event of first rate importance in the field of economics. It presents an unbiased and probably as accurate a sketch of the post-war developments in American economic life as may well be constructed with our knowledge limited as it is. And what does the picture reveal?

Notable advances have taken place in our standards of living. The years since the war have witnessed unprecedented increases in our per capita expenditures for health, amusement, and education and in the number of stu-

dents in our colleges. It has likewise seen a widespread use of commodities, old and new, falling in the luxury category—automobiles, radios, and electrical appliances. Nor have the purchases of these commodities been confined to the representatives of the capitalist class. Sample studies of a detailed sort indicate that approximately three-tenths of the automobiles in the \$1,000 and \$1,600 class are bought by wage-earners—laborers, firemen, artisans, and motormen. Another three-tenths are purchased by the salaried group—superintendents, foremen, salesmen, and clerks. As we have travelled faster, so we have eaten better. The use of more expensive foods has accompanied a decline in the per capital consumption of foodstuffs, and through a reduction in the hours of labor there has been more time in which to amuse ourselves—and thanks to machine progress, more ways.

These advances in the standard of living have been made possible by an increase in the physical volume of product—the result of a more widespread resort to machinery, the utilization of new manufacturing materials, the development of new manufacturing processes, and the elimination of waste in the handling and processing of materials. Better management and improved marketing have contributed towards the same end. "There is today not only more productivity per man, more wages per man, more horsepower per man; there is also more management per man." And it may be added, better management. The securing by the laborers of a "fair" share in the increased output has been facilitated by our policy of restriction of immigration and by a decline in the rate of increase in our native population. A new emphasis on the part of organized labor—the demand that increased productive effort be rewarded by an increase in hourly wages—together with the acceptance by the employers of the new ideas regarding the influence of high wages upon prosperity have contributed toward the same end. The improved economic condition of our country is roughly indicated by an increase in per capita income (expressed in 1925 dollars) from \$621 in 1913 to \$733 in 1926.

But while the picture by and large is a rosy one, it is marred by ugly splotches. Although the standard of living for most of us has advanced, more than 40 percent of the total farm population, now living on low-value farms, have not only failed to improve their standard of living in the period under review, but have sustained such standards as they have by the use of a vast mortgage indebtedness.

Although industry has been made more efficient by a widespread resort to machinery, machines have thrown men out of jobs and the plague of unemployment has continued unabated. Although industry at large has been prosperous, certain industries have languished—notably ship-building, the railway equipment industry, and agriculture; in less measure, textiles, the shoe industry, and bituminous coal. Nor has prosperity experienced an even geographic distribution over our fair land. The Middle Atlantic, the East North Central, and the Pacific states have flourished, while New England's manufactures have waned and depressed agriculture has afflicted the South, the Middle West, and the Mountain states.

And finally, the buoyant peaks and depressing troughs of the business cycle have not been entirely eliminated—although evidence available at the time the study was completed indicated that their intensity had been considerably lessened. That, however, was before the recent stock-market



panic. In the light of this recent debacle, wise indeed seem the words of Professor Mitchell in his excellent summary: There is "no proof that moderation will characterize the later stages of the current cycle or its successors."

Preceding as it did the culmination of the four-year bull market which was accompanied by unusual optimism and apparently widespread prosperity, the study takes on added significance. Although designed primarily as a record of the past, not a forecast of the future, it cannot help but be evaluated in the light of present economic trends. In view of the fact that we are entering upon what seems to be the most serious business recession since the depression of 1921, the question may appropriately be raised: To what extent can facts of business development be used as a basis for a program of social control? The economists who participated in this study did not let themselves be blinded to the danger spots in our current business development. In a comprehensive introduction, Professor Gay emphasizes by his appeal to American economic history the transitory character of strikingly similar periods of business prosperity in our past development. In his penetrating analysis summarizing and interpreting the developments of the past seven years, Professor Mitchell sounds a warning note: "That we have not had a serious crisis since 1920 or a severe depression since 1921 is no guarantee that we shall be equally prudent, skillful, and fortunate in the years to come . . . . We are leaving 1921 well behind us, and there are signs that the caution inspired by that disastrous year is wearing thin."

The foreword to the study by the committee of business men who sponsored it, although expressing the need for intelligent leadership if American prosperity is to be maintained, strikes a uniformly more optimistic note, neatly sounded, in the concluding thought: "Our situation is fortunate, our momentum is remarkable." One quality in the American mind which has no doubt contributed in large measure to our economic prosperity is our congenital optimism. But truly every blessing has its drawbacks. Although the stock market debacle is not to be laid at the doors of Mr. Hoover who headed the Committee that sponsored this remarkable economic study, published some eight months before the stock market crash, and though we must give him credit for the prompt manner in which he has acted in endeavoring to lessen the severity of the business recession now upon us, the findings of his own committee of experts lends some credence to the charge that has been made against him: "He has hastened to lock the stable door after the horse has been stolen." Mr. Brisbane once sagely remarked: "It is dangerous to sell America short." It is equally dangerous, recklessly and everlastingly, to buy her long.

GEORGE WARD STOCKING.

The University of Texas.

Fleming, Denna Frank. *The Treaty Veto of the American Senate*. (New York: G. P. Putnam's Sons, 1930, pp. ix, 325.)

In this volume the author traces the history of the Senate's place in treaty-making from 1789 to the present. The major points treated are the Senate's action in the negotiation amendment and rejection of treaties, on arbitration treaties, on treaties of peace, and in regard to the League, to the Treaty of



Versailles, to the attempt of the United States to enter the World Court, and to the Paris Peace Pact. The twelfth and final chapter states and discusses the conclusions that the author wishes to draw.

It is not that the total number of treaties rejected or amended by the Senate is large. Five-sixths of all treaties laid before it have been approved unconditionally. One-sixth or about one hundred fifty have been amended, and about thirty have been rejected outright. It is, however, not so much the number of treaties vitiated by amendment or rejected outright that matters as it is the particular treaties that are subjected to such treatment. The author surveys the treaties that have been rejected and attributes their rejection sometimes to sectional and occupational interests, often to politics alone, and again to senatorial vanity and suspicion of the executive. Especially noteworthy has been the attitude of the Senate toward arbitration treaties, an attitude that, if the Kellogg treaty of 1928 may be taken as indicative of a tendency, shows some recent indication of intelligent improvement. In his treatment of the Treaty of Versailles, the author goes into considerable detail to illustrate the means by which a handful of senators, endowed with strong lungs and legalistic minds, favored by the absence of immediate responsibility to the people, and given the equivalent of two votes each, can wreck a foreign policy and endanger the peace of the world in order to destroy a president. The World Court and the Paris Peace Pact offer less striking illustrations.

The conclusions may be briefly stated. First, the Senate retards unduly the peaceable adjustment of international relations; second, the lack of wisdom in the majority of the rejections and amendments has been clearly proved; third, the Senate has proved its unworthiness of the great power it has over treaties, and in consequence that power should be reduced or removed entirely; fourth, the experience of the rest of the world goes to prove that the present treaty-power of the Senate should be transferred to the House of Representatives; fifth, alternative solutions are a majority vote in both houses, a simple majority in the Senate, or a majority of the whole Senate; sixth, and finally, the alteration of negotiated treaties is not a proper legislative function, for the practice is offensive, is particularly destructive of multilateral treaties, and leads to *sub rosa* diplomacy.

It is difficult to quarrel with these conclusions. That the alteration of negotiated treaties is not a proper legislative function is evident in the nature of the case. Legislative action should be restricted to outright rejection or to requests for Executive alterations by the usual channel of diplomacy. This is the only practicable manner in which "advice" can be given to the president. This principle being established, it remains, in order to prove the need of a change in the present constitutional system, merely to show that the Senate has violated that principle. This the author proves in clear-cut fashion. In addition to that, the record of the Senate fully disproves the reasons that underlay the grant of such a tremendous power.

It appears to an increasing number of people that the American Senate is attempting to make itself the counterpart of the Roman Senate in both the legislative and the executive field. It may well be that the American people will finally be compelled to profit by the experience of other peoples

and relegate their upper chamber to a subordinate position, at least in the matter of treaty making.

CHARLES A. TIMM.

The University of Texas.

Lueher, Elmer. *The New German Republic*. (New York: Minton, Balch and Co., 1929, pp. 442.)

The sub-title of this excellent study of one of the great peoples of the world and one of the powerful democracies among modern states is "The Reich in Transition." This is an apt description of the new German Republic from the Revolution of 1918 to the victorious place the republic holds today, representing before the world a nation of over seventy millions of people working out their experiment of democracy in new governmental forms. So much has happened in these years that it is hard to believe empires and kaisers and czars and war-lords belong to a recent past. Even the Treaty of Versailles seems nearer to the Congress of Vienna in 1815 than to 1930.

The German Republic ten years after Versailles endures. The wonder of the transition from Empire to Republic has not caught the imagination of the world as the thing it is; for the development of the democracy of the twentieth century in Europe this fact will rival in political importance the effects of the French Revolution. There is political power in German democracy. The world has noted the directions of this fresh energy at Geneva where representatives of 54 nations since 1926 have heard Stresemann interpret German foreign policy in terms of international security. Stresemann, like Hindenburg, saw inevitable democracy for Germany, and he gave himself the most difficult post-war task in Europe, the organization of German national life so that it would be intelligent to itself and intelligible to the rest of the world. And no democratic experiment ever began in more bitterness and in more distrust. A starving people at home and a world outside taught the tragic lessons of hate by years of war cared little about the birth pangs of a new Republic. Democracy was not the mode then nor is it now. But it worked.

This book is a capital account of the new German democratic experiment. The work of a sympathetic critic has been put into this study, and it easily takes a place as one of the best books treating in a general survey the recent history of Germany. The chapters on "The Revolution" and "The Causes of the Revolution" are splendidly done, and give in fuller detail the Germany of the last chapters of Remarque's "All Quiet on the Western Front." It is easy to understand that the nation took the attitude: "rather an end with terror than a terror without an end." Starvation was the lot of a whole people, and slowly they were finding out how criminally they were duped by militarism. They loved their land; they fought for it; and they with all other peoples who fought found at the end in mind and body a terrible curse of war weariness.

Mr. Lueher gives the essential facts with regard to the Weimar Constitution, the peace treaties, the debts and reparations, the Ruhr invasion, the Dawes Plan, Locarno, and even down to the most recent Experts' Plan. The recital gives an impression of long years of struggle. These great events

are comprehensively treated and they are seen, as they should be, as part of the continuous story of Germany within winning control of her national life, and on the outside meeting again as an equal a world of nations with problems much like her own. It is plain that there was no victory in the war. The financial and industrial problems of the post-war world were about the same in all countries.

This book gives the history of the ten years of struggle through which the German nation has passed since Woodrow Wilson set their Revolution whirling ahead by his demand of the kaiser's abdication and a new deal for the German people. The nation is now at work upon the problems of democracy, giving within Germany a larger industrial freedom to the working class and organizing the productive capacity of a disciplined people. For the world outside there is Germany's leadership in international affairs today recognized as of first importance for the peace of the world, and to the baffled leaders of nations Germany as a strong Republic is a valuable colleague. Locarno showed a new Germany and a new France, and as war years lie farther away their commonsense amity may make it easier for nations to find out what they can achieve in coöperation. If Germany had gone the way of Bolshevism or of Fascism western Europe would have been a nightmare until a Napoleon stalked across acres of the dead. The League of Nations would yet be a police agency of the Treaty of Versailles, and there would have been no Locarno nor a Kellogg-Briand Pact. There is instead today, however, the slowly evolving structure of a new and more powerful Germany, a Republic now, and this recent recruit to democracy has strengthened the energies of all free people the world round who are trying to organize the institutions of peace. When the history of these times is written in years to come, it will be to the everlasting credit of Germany that when Italy and Russia and other nations were repudiating democratic institutions, she took her own broken bones from an imperial past and welded them into a mighty world force for order at home and peace abroad.

CHARLES W. PIPKIN.

Louisiana State University.

Haider, Carmen. *Capital and Labor Under Fascism*. (New York: Columbia University Press, 1930, pp. 296.)

Any effort to find the status of Labor and Capital under Fascism is welcome. Since the war these two important factors of production have been in a state of flux throughout the world and it is interesting to ponder concerning the extent to which the Italian Fascists have found a way out. It is quite impossible to divorce the economic from the political in the study under consideration, but in the reviewer's opinion the economic institutions are brought into a new relief in Dr. Haider's study.

How did fascism come into existence? During and after the war the morale of Italy was lowered and accompanying the widespread disillusionment, indignation, and humiliation was the desperate economic situation. How did fascism meet the hopelessness of this drab picture? The traditions and long and glorious history of the Roman Empire are brought forth to develop what fascism regards as its foremost duty—"the cultivation among the people of love for the mother country." Encouragement is in every way

given to a strong family spirit while the church and state are brought closer together. To George Sorel the fascists go for the Syndicalist idea but instead of giving consideration only to one class, all classes are regarded as productive under integral Syndicalism of the fascists. The idea of a single syndicate for any one occupation is advocated and in carrying out such schemes the fascists promised more for the worker.

Once the fascist state is established what happens to the right to strike? It becomes an illegitimate weapon and an "offense against the public because it interrupts production." The same applies to lockouts. Labor is regarded as a social duty and therefore strikes are prohibited. Dr. Haider points out that the number of strikes is greatly reduced and lockouts have never occurred. Reduction in output, part time work and similar measures are found rather than the lockout.

The chapter on "Social Welfare and Education" was somewhat disappointing because of lack of detailed information, but perhaps there was not so much to write. The Labor Inspection Department had been created long before fascism came into power and is continuing to function actively. The labor bank has also been continued under the new government. The construction of model houses for the wage earners and low salaried employees has been undertaken. Insurance against tuberculosis and in July, 1928, commission was created to study the possibility of compulsory insurance against all illnesses. In fact the charter of labor proposes a social insurance program with universal application. An interesting organization for welfare work similar to that performed by the Y.M.C.A. in the United States, and including also work similar to that of the "Playground and Recreational Association of America." Membership in the Depolavo may be held by institutions pursuing similar aims or by individual persons.

Among the difficulties within the Fascist Syndicate System the reviewer finds:

(1) The spirit of sacrifice is not well developed and when the state tries to make the fascist doctrine supreme, violent opposition is encountered.

(2) Mussolini alone is able to keep the Fascist party together. What will happen when he dies or becomes infirm?

(3) While criticism is suppressed there is much evidence of insincerity and agreement on criticisms when a third party leaves the room.

(4) Many workers who have dignity resent the suppression of their personality and prefer to live abroad.

(5) Unemployment is high, being 489,347 in February, 1929, the greatest percentage being found in agriculture (February is usually a month of intense agricultural activity).

(6) A strong opposition may develop if the economic situation does not improve.

(7) The terms "fascist" and "Italian" have not become synonymous as was hoped and the fascist doctrine that the state is superior to the individual citizen is not applicable.

(8) The lack of representation of the economic interests in the Senate.

(9) The fact that the Government is neither under the control of the capitalists nor committed to the workers, but is in the hands of a party carries with it many objections. Under such circumstances the suppression of criticism is perhaps the best policy.



(10) The Italian Parliament has no essential function. The Fascist Grand Council dominated by Mussolini has assumed the functions of Parliament. Thus the system of representation, adequately described by Dr. Haider, simply does not represent and is undemocratic and out of accord with human nature.

One wonders how long the fascist experiment will continue in the face of such difficulties. The fact that many hold to fascism as they would hold to a religion is, no doubt, an important factor coupled with Mussolini's personality. If he expanded the Italian kingdom and relieved the economic conditions things would look much brighter. But there are limitations here for, as the Turks say, the Italian soldiers may land in Turkey in good condition, but they will never leave alive.

JOHN B. EWING.

The University of Oklahoma.

Foster, William Trufant, and Catchings, Waddill. *The Road to Plenty*. (Boston: Houghton Mifflin Co., 1928, pp. iv, 229. Popular edition.)

Continuous employment and an income adequate to provide a decent standard of living for everyone constitute the state of Plenty which the authors visualize.

The leading character in the book is a business man; the authors express their ideas principally through him, and these ideas may be called a business man's theory of economics. For polemic and popular purposes the older economics, particularly the automatic production-consumption theory and Adam Smith's notion of a beneficent hand, are ridiculed, and there are numerous slaps,—some amusing, some irritating,—at professors of economics. Few economists today are of the obsolescent sort which the authors are pleased to picture as a type.

The main thesis of this book, as well as of the other books of Messrs. Foster and Catchings, is that if consumers' income can be increased without at the same time more than proportionately increasing the supply of consumers' goods, prosperity can be continuously maintained. The authors seem to assume that the right flow of money to consumers will somehow get started, but once started they maintain that to sustain the flow there must be controlled construction of public works and private capital facilities. It is advocated that the federal government shall collect and quickly publish the statistical and other information which will govern the federal government in its fiscal decisions, and it is conjectured that private business will follow, without legal compulsion, the government leadership.

There is some involved economic reasoning given for the right flow of money to consumers being the key to the remedy for recurrent business depression and unemployment, but the remedy may be accepted as well with as it may be without the authors' line of reasoning. There is nothing novel in the proposal of planning expenditures for public works with a view of sustaining employment. Messrs. Foster and Catchings have strengthened the proposal by advocating that there shall be set up a federal board for the collection and publication of data which will be used as a guide to public and private capital expenditures. Such a long-range planning of public works would be all the more effective if state and local governments could



be induced to accept it, but students of public finance and public administration realize the obstacles in the way of a rational ordering of state and local expenditures.

The problem of business depression is a complicated one, and a survey of the literature on it forces one to the conclusion that it is not to be solved by the simple proposals in the *Road to Plenty*. However, the adoption of these proposals would result in marked improvement over the old and the present order of things, and it is pertinent to note that enlarged expenditures for public works are what President Hoover and his business advisers are relying upon to ameliorate the unemployment situation which has developed since the fall of 1929.

While conceding much merit to the proposals made in the *Road to Plenty*, one cannot admit that they will result in any different distribution of wealth or the attainment of a higher standard of living for the mass of the people. Viewed from these ultimate goals of human progress, the title of the book is misleading. The contents of the book relate to the prevention of involuntary unemployment, and it is no doubt true that on account of this limited objective the book will have more influence than if it attempted to measure up to the title and expound a new way to Utopia. Written as it is in the form of a novel, with a diversified set of characters and a setting in the smoking room of a Pullman car, the book is entertaining as well as instructive.

E. T. MILLER.

The University of Texas.

Castañeda, Carlos E., ed., *Nuevos Documentos Ineditos O Muy Raros Para La Historia de Mexico*. (Mexico: Talleres Graficos de la Nacion, 1929, Tomo II, pp. xii, 215.)

Students of the history of Latin America, and of Mexico in particular, will welcome the renewed publication of the notable series *Documentos Ineditos o Muy Raros Para la Historia de Mexico*. Between the years 1905 and 1911 the late Genaro Garcia published thirty-six volumes of valuable source materials in his possession on the history of Mexico before and after independence. Because of the failure of funds the publication was temporarily suspended, but was renewed in 1913 as a new series entitled *Nuevos Documentos Ineditos o Muy Raros Para la Historia de Mexico*. Only one volume was issued, for financial difficulties, poor health, and political disturbances again necessitated a suspension of publication. After the death of the distinguished Mexican bibliophile, his precious manuscripts, indispensable sources for the history of Mexico, were acquired by the University of Texas, and it appeared that the series had been permanently suspended. It is indeed fortunate, however, that the custodian of the Garcia collection in the library of the University of Texas, Mr. Carlos E. Castañeda, is not only eminently qualified to edit the manuscript treasures entrusted to his care, but that he has been able to secure the support of the Secretaría de Educación Publica in Mexico to have them published as a continuation of the famous Genaro Garcia series.

The document which Mr. Castañeda edits, *Apendice historico sobe la antigüedad y otros particulares interesantes al Mismo Colegio de San Pedro, San Pablo, y San Ildefonso* by Dr. Felix Osoreo, Mexican prelate during the

early days of independence, was in reality selected for publication by Genaro García himself. In his preface to Osore's *Noticias Bio-bibliograficas de Alumnos Distinguidos del Colegio de San Pedro, San Pablo y San Ildefonso*, published in volumes XIX and XXI of the series, he wrote, "Doctor Osore's, in an appendix to his *Noticias Bio-bibliograficas*, which we will publish immediately in these *Documentos Inéditos o Muy Raros*, writes a detailed history of the said college." The scheme of the great collector, therefore, is being carried out in the renewed publication of his documents.

The *Appendice* of Dr. Osore's is more than a history of the college of San Pedro, San Pablo y San Ildefonso, of which the distinguished prelate was an alumnus. It is in reality a history of all the colleges of Mexico City from the conquest until 1780. One is surprised to note the number of colleges that were founded in New Spain. Dating from 1536, when the college of Santa Cruz was opened, no less than a dozen were founded, in addition to the University of Mexico. A complete outline of collegiate organization and activities, as illustrated principally by the college of San Ildefonso, is presented. This includes such subjects as: founders and benefactors, scholarships, professorial chairs, masters and presidents, plan of studies, the library, privileges and prizes, and activities. The scholarships, an interesting feature, were numerous, paid well, and were of great service in aiding needy students. The patrons were also generous in supplying the colleges with books; indeed, in this manner originated and developed several large and valuable college libraries. The nature of student rule is described, and also, what it sometimes led to, such as, for example, a strike because the students objected to an instructor's organization of his lectures and his habitual tardiness.

Mr. Casteñeda's editorial results are deserving of the highest praise. The document is annotated to an extent far beyond anything attempted by Genaro García in any one of his thirty-seven volumes. Mr. Casteñeda really edits, whereas García merely assembled documents for publication with few or no explanatory and critical notes. The notes in the present volume are particularly valuable since the editor made good use of Mariano Echevarría y Veytia's *Noticias de la Ciudad de Mexico* which contains numerous curious references to the first colleges of Mexico City. The inclusion of an alphabetical index is a commendable feature not to be found in the earlier volumes of the series.

J. LLOYD MECHAM.

The University of Texas.

Ogg, Frederic Austin. *English Government and Politics*. (New York: The Macmillan Company, 1929, pp. x, 783.)

Those who expected an authoritative survey of English government and politics will not be in any wise disappointed in Ogg's *English Government and Politics*. It is no more than fair to say that the new book has been adapted in good part from the first half of the author's old *The Governments of Europe*, but justice will not be done if the impression is left that the new is nothing more than a revision of the old. It is a great deal more than that, for the material originally incorporated into the old book has been so thoroughly re-worked that the result is a new book in fact as well as in

name. Within the seven hundred seventy pages the reader will find a well-balanced, complete, authoritative, and up-to-the-minute discussion of the English system of government and English political parties, a discussion wherein the author's predilections are kept in the background and the material treated in that detached and objective way which adds so much to the value of any work which is in good part descriptive or expository in nature. There will be those, of course, who will aver that certain phases of the subject have been slighted—some will be of the opinion, for example, that more consideration should have been given to the courts and to local government, and others will insist that the one chapter on imperial affairs is wholly inadequate, even while conceding that treatment of this subject had from the nature of the limits set for the book to be purely incidental. It is believed, however, that such criticisms will be found to be based largely on personal preferences. The author has set for himself limits which cause him to be pressed for space on occasion, but it will hardly be denied that within those limits he has given his subject a very satisfactory treatment.

For the benefit of those who speculated on the prospective literary merit of the book, it may be said that the author's style has taken a decided turn for the better. The book is really easy to read; it flows along smoothly in a way which reveals no great labor or effort on the part of the author and which makes for none on the part of the reader. Other factors contribute of course to the general satisfaction with which the book may be used. The author's use of italicized sub-titles within the chapter calls the attention of the reader to the particular topic with which each section deals; and the foot-notes are used skilfully to supply material not suitable for the context of the book. Fairly complete bibliographies have been included, either by reference in a note or by citation in a list of selected references found at the end of the chapter, and these add greatly to the value of the work. Yet again, the publishers have done an excellent job with the book: they have given it a striking format and excellent print, so that the reader is predisposed in its favor at first sight. Further examination will reveal that the proof-reading has been well and carefully done, so well done indeed that no more than three or four errors were found in a careful reading of the whole book, which is remarkable in a work of nearly eight hundred pages. All these facts and more impress themselves on the mind of the careful reader, and especially does the comparatively excellent literary quality of the book stand out as one of its most pleasing characteristics.

On the basis of the foregoing comments, the conclusion is clear enough that the author has performed his task in a most satisfactory way. The further observation may be made that he has set himself to a task well worth the performing. The way was clear for a good, up-to-date work on the British government, and in particular was there a real need for a fairly comprehensive one-volume treatment of the subject. The volume at hand meets this need in a thoroughly acceptable fashion, being at once reasonably complete, accurate, and well written. That it is very well adapted to use as a text-book in college classes can be affirmed on the basis of actual experience with it; that it will find itself limited to a clientele of college students, however, is not meant to be implied. It will find a wider field of usefulness than

that, for it may be read with profit by anyone in any wise interested in the government and politics of England.

ROSCOE C. MARTIN.

The University of Texas.

Dewey, John. *The Sources of a Science of Education*. (New York: Horace Liveright, 1929, pp. 77.)

"With this volume Kappa Delta Pi, and International Honor Society in Education, begins the publication of its series of lectures delivered annually at the Society's dinner by eminent scholars interested in the broad aspects of education." So says the announcement of this little volume. The selection of John Dewey to deliver the first lecture of the series is particularly appropriate. He has always held that education is one of the chief reasons for the existence of philosophy, he has incorporated some of his profoundest philosophy in his books on education, and he has recently completed the seventieth year of a life devoted largely to the social, political, and educational problems of today.

The lecture is characteristically condensed and suggestive. That science signifies systematic methods of enquiry, that its object is the better understanding of the range of facts with which it deals, and that its practical results lie in the intelligent control of situations, seem commonplace truisms. But education has suffered from failure to take this view of science. It has looked for exact results and has attempted to deduce rules for immediate action. The final reality of a science of education is not to be found in statistics, in borrowed techniques, or in laboratories, but in the minds of those who direct educational activities. Contrary to the general opinion education is not a science with a definite body of material of its own. Like bridge-building it rests on a number of other sciences. The problems of education arise in the educational process; the content of the science which seeks to understand and control these problems comes from psychology, sociology, economics, and the other special sciences. Failure to recognize this fact leads to the isolation of education and to the weakness which results from men entering the field without sufficient preparation in the other basic sciences. Recognition of the relationship brings breadth of view, flexibility of method, and liberation from prescription and routine. Education is itself wider than any science and includes science within itself. "In its very process it sets more problems to be further studied which then react into the educative process to change it still further, and thus demand more thought, more science, and so on, in everlasting sequence."

E. T. MITCHELL.

The University of Texas.

International Association of Chiefs of Police. Committee on Uniform Crime Records. *Uniform Crime Reporting: A Complete Manual for Police*. Revised. (New York: Committee on Uniform Crime Records, International Association of Chiefs of Police, 1929, pp. xvi, 464.)

Fifty-eight years ago a resolution was adopted by the National Police Association declaring it a purpose of the Association "to procure and digest statistics for the use of police departments," a mere gesture, for until now



such a task has been impossible. In 1927 the International Association of Chiefs of Police designated a Committee on Uniform Crime Records, and this report now made is the result of coöperation on the part of the Committee members and of a staff of which Bruce Smith of the National Institute of Public Administration was director.

The result of two years' work is this complete manual and guide to police departments in preparing uniform reports of crime. It is extremely practical, giving a uniform crime classification, exact instructions for crime reporting and for adjustments of local record systems to the uniform system, and a complete compilation of schedules for reconciling definitions of offenses in each state and also in the several territories and dependencies of the United States. The system provides that the United States Department of Justice act as the central clearing house for statistics and that state offices of criminal identification act as clearing houses for the several states. Copies of the manual are being sent free to city officials everywhere in the United States so that it will be possible for the system to be put into effect immediately, if the officials will coöperate. In fact, it has already been started in a few cities.

The usefulness of such a handbook is quite obvious. Not only will careful city officials welcome it, but also the general public interested in law enforcement. Accurate comparative statistics for cities and states will now be possible, and there will be a real basis of study for those seeking to check the rising crime wave.

FRANK M. STEWART.

The University of Texas.

Beard, Charles A., and Radin, George. *The Balkan Pivot: Yugoslavia. A Study in Government and Administration.* (New York: The Macmillan Company, 1929, pp. 325.)

This worthwhile study was undertaken at the request of the America-Yugoslav Society of New York. The primary sources for it were gathered "on the ground in Yugoslavia," and the work completed before the establishment of King Alexander's royal dictatorship early in January, 1929. But this does not make the book out-of-date, for the fundamentals of the political system were not seriously altered until late in 1929. In several places the conditions that led to the dictatorship are well explained.

As the title indicates, the book deals mainly with the machinery and problems of government and administration. Starting with introductory chapters in which the authors deal with the basic resources of the land and stress the dominance of agriculture carried out almost wholly by peasant holders, and give a historic resumé of the various parts that make up the new state, they quickly pass to the study of government. They give a good account of the making of the constitution which was mainly the work of the Serb minority, and then pass to a fairly full discussion of the crown and parliament, political parties, the cabinet system, and the administrative system.

Chapter nine deals with the budget system and chapter ten with national economic problems. In the reviewer's opinion, these and the following chapter on "public opinion" are the most interesting in the book. Later chapters take up the courts and the law, and the local government. The



book closes with a survey of foreign policy and national defense.

It is a semi-popular account of the many aspects of life in Yugoslavia that government touches. It will be very useful to the students of European government and of Balkan affairs. A fuller discussion of economic questions would have made it even more useful.

CLARENCE PERKINS.

University of North Dakota.

#### BOOK NOTES

Although municipal indebtedness has been increasing rapidly and a few states have enacted laws to put these debts on a sound financial basis, Illinois still keeps the restrictions in its constitution of 1870, as shown by Ward L. Bishop in *An Economic Analysis of the Constitutional Restrictions Upon Municipal Indebtedness* (Urbana: University of Illinois, 1928, pp. 113). The historical development of constitutional restrictions from 1818 down to the proposed constitution of 1920, and the judicial interpretation of these restrictions are the subjects of the two introductory chapters. The analysis of restrictions falls under three main headings: (1) the relation to the system of taxation, which is faulty because property is not assessed uniformly, because evasion is used, and because assessed values and the needs of a community do not necessarily coincide; (2) the growth of debt from 1915 to 1925, which actually, however, in the terms of the 1913 dollar decreased until legislation in 1919 gave the cities greater borrowing power; and (3) the purposes of indebtedness, there being no distinction between indebtedness incurred for income-bearing and non-income-bearing property, a restriction which makes municipal ownership of public utilities difficult.

In conclusion, the author shows the inadequacy of an arbitrary percentage limit based on assessed valuation; the injustice of limits that make no distinction between debt for income-bearing property and other debts and at the same time allow debts to be incurred for current expenses; the lack of wisdom in the requirement that provision be made in the ordinance at the time of contracting the debt for sufficient taxation to pay interest and principal eventually, regardless of the fact that the money may be borrowed for a public utility that will pay for itself; the mistake of a twenty-year limit on indebtedness and legalized refunding, a limit too short or too long according to the nature of the improvement. Mr. Bishop cites the systems of restriction in Massachusetts, New Jersey, and Indiana as being more adequate and flexible than those of Illinois.

F. M. S.

According to Professor Irving Fisher, in his *The Money Illusion*. (New York: The Adelphi Co., 1928, pp. viii, 245), "the money illusion" is the belief that a standard unit of value, such as the dollar, has an unchanging value because it has a fixed weight. Of course any one who has had instruction in economics knows better than to entertain this illusion; but even for those who know, as well as for those who do not know, that the dollar is unstable in purchasing power, Professor Fisher's book is interesting, because it is a clear and concise statement of the problem of unstable money, has fresh and forceful examples of instability and its consequences, and outlines

what governments, banks, and individuals may do to improve the situation.

The book is not given over to a presentation of Professor Fisher's well known proposal of the compensated dollar, but it is concerned primarily with a statement of the problem and the importance of adopting some sort of control. The ups and downs of the price level since 1913 and the present state of business are adequate reasons for a general interest in this book.

E. T. M.

*The United States and the Caribbean* (The University of Chicago Press, Chicago, 1929, pp. xi, 230) is the second of the series of volumes being published by the Chicago Council on Foreign Relations on the foreign policies of the United States. The present volume consists of three chapters, as follows: "The Development of the Caribbean," by Chester Lloyd Jones; "The United States in the Caribbean," by Henry Kittredge Norton; and "'Self-Defense' and 'Unselfish Service' in the Caribbean," by Parker Thomas Moon. The first gives a survey of the political and economic development of the area; it points out the major handicaps to future development and sustains, in general, the Caribbean policy of the United States. The second describes and defends the attitude, the policy, and most of the actions of the United States in the attempt to maintain peace and promote orderly development in the whole Caribbean area. If that be imperialism, the author would say, then the Caribbean states may do well to welcome more of it; and some of them actually extend such welcome. The third plays up all the evil connotations of imperialism in criticizing the Caribbean policy of the United States; it makes the usual error of overlooking practical considerations; and it makes no constructive proposal except the dubious one of suggesting the pan-Americanization of all external governmental interposition, regardless of how insignificant may be the practical interests of states other than the United States.

C. T.

Frederick E. Lumley's *Principles of Sociology* (New York: McGraw-Hill Book Company, 1928, pp. xii, 562), has a connecting thread of interest in personality as the central sociological fact of the universe. Throughout, there is an element of emphasis on the individual as an end. The person is seen born into a group, which has certain folkways and mores, certain traditional patterns of interaction and reaction; the person, born with potentialities only, is seen to acquire from the group in which he moves, all that goes to make him a personality. Lumley's gigantic conception of personality as a product of an immeasurable and endless vastness of interaction and contact is rather appalling at times. But the endless chain of interaction does not dismay the author. It hammers so continuously on the theme of personality as a social product and a producer of social forces that the elementary student cannot fail to get the facts of sociology as presented in this closely related form. If Professor E. W. Burgess saw the family as "a unity of interacting personalities," how much more complete is Lumley's concept of the universe as an integration, if not a unity, of interacting personalities.

The book is, at all times clear definite and unmistakable. Much of the matter contained in the first two chapters is, in fact, painfully simple, and so

far as the general reader is concerned would have been better omitted. The book was evidently written to serve as a text in sophomore sociology, and it is admirably adapted to this end.

Dr. Lumley is not only a sociologist; he is a cosmic philosopher, interested in social values. Indeed, this text furnishes quite a pleasing variation from the formal sociology that seems to have become dominant. Whatever is lost in the way of academic objectivity is more than made up by the zest that his treatment of content lends his definitions of social values and social progress.

E. N.

*On the Commonwealth*, a translation of Cicero's great work by George Holland Sabine and Stanley Barney Smith (Columbus: Ohio State University Press, 1929, pp. ix, 276) will be welcomed in particular by students of political thought. The text, which is carefully translated, is elaborately annotated. The introduction by the translators is particularly noteworthy (pp. 102). It is divided into four chapters and constitutes an admirable treatise on the background and content of Cicero's political philosophy. The chapters are entitled: "The Commonwealth and Its Author," "The Political Theory of the Stoics," "Cicero's Political Theory," and "The Institutions of the Ideal Commonwealth." An excellent bibliography is also attached.

O. D. W.

The Pollak Foundation for Economic Research offered a prize of five thousand dollars for the best criticism of *Profits*, a book by W. T. Foster and Waddill Catchings. The judges were Wesley C. Mitchell, Allyn A. Young, and Owen D. Young. Included in the *Pollak Prize Essays* (Newton, Mass.: Pollak Foundation for Economic Research, 1927, pp. 131) are the prize winning essay by R. W. Souter and the essays of Frederick Law Olmstead, C. F. Bickerdike, and Victor Novogilov. The latter three are published because of their high ranking by the judges.

The authors of *Profits* believe that the critical essays indicate that there was faulty exposition of, but no fundamental fallacy in, the theory advanced in *Profits*.

The *Essays* find a proper place in the series which Messrs. Foster and Catchings have conceived and executed for the purpose of developing a theoretical basis for keeping business continuously prosperous and for evolving a practicable plan to accomplish that end. The theoretical groundwork was laid in the three books, *Money*, *Profits*, and *Business Without a Buyer*. In the *Road to Plenty* the series comes to fruition and a plan is proposed.

All of the books of the series have an appeal to the general reader as well as to the professional economist, and they deserve the general favor with which they have been received.

E. T. M.

The war debts question may appear to the American people to be settled, because funding agreements have been signed by the United States and the debtor nations, but in the opinion of Philip Dexter and John Hunter Sedgwick in their *The War Debts, An American View* (New York: The

Macmillan Co., 1928, pp. 173), this question is, like Banquo's ghost, sure to rise again.

The sharp criticism of the policy of the United States by such European leaders as Tardieu and Snowden, the general European opinion that Uncle Sam is a modern Shylock, and the recurrence of expressed ill feeling on this subject in each new volume of memoirs of the foreign statesmen and leaders of the war period animated the authors to write this book and state in it the accepted American view.

The book is not pro-German, but, on the other hand, contains some pointed criticisms of Germany. Those who are opposed to cancellation will find in it support for their position, and those who favor cancellation will be agreeably surprised at the end to find that the authors agree with them.

E. T. M.